

TAKING ON WATER: THE NATIONAL PARK SERVICE'S STALLED RULEMAKING EFFORT ON PERSONAL WATERCRAFT

HEARING

BEFORE THE
SUBCOMMITTEE ON REGULATORY AFFAIRS
OF THE
COMMITTEE ON
GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED NINTH CONGRESS
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TAKING ON WATER: THE NATIONAL PARK SERVICE'S STALLED RULEMAKING EFFORT ON PERSONAL WATERCRAFT

WEDNESDAY, MARCH 15, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:02 a.m., in room 2247, Rayburn House Office Building, Hon. Candice S. Miller (chairman of the subcommittee) presiding.

Present: Representatives Miller, Cannon and Lynch.

Also present: Representative Akin.

Staff present: Ed Schrock, staff director; Erik Glavich and Joe Santiago, professional staff members; Benjamin Chance, clerk; Krista Boyd, minority counsel; and Jean Gosa, minority assistant clerk.

Mrs. MILLER. Call the meeting to order. Good morning, everyone. Appreciate you all coming. I certainly want to welcome everyone that's in attendance today to our hearing on the National Park Service's rulemaking effort on personal watercraft. Sometimes it seems that the Government sort of moves along at its own pace. I think we've all noticed that. Many times, certainly, a calculated approach is warranted, but too often governmental agencies seem to work at a glacial pace.

The National Park Service has been working on a rulemaking effort to allow personal watercraft such as jet-skis or Sea-Doos, known by the acronym PWC—and I come from a boating background, I still call them jet-skis or what have you; though I still call copy machines Xerox machines—for about 6 years, and during this time many self-imposed deadlines have come and gone, and I'm concerned that the completion of this effort has not been a priority as it should be, I think, for the Service. The delays have resulted in unwarranted bans of PWCs in national parks, which have had a detrimental impact on small businesses and individuals that rely on sales, rentals and services for their livelihood.

In March 2000, the Park Service issued a rule banning personal watercraft from national parks beginning in 2002. The rule identified 21 parks which may allow PWCs, but only after completing appropriate procedures to ensure that PWC use is appropriate. The Bluewater Network and its parent company, Earth Island Institute, filed suit against the Interior Department and the Park Service challenging the provision of the rule that allowed 10 of the iden-

tified national parks to allow the use of PWCs without having to go through a special rulemaking with a public comment period and an environmental assessment as well. As part of a settlement agreement, the Park Service required all parks to complete a special rulemaking and environmental assessment before allowing PWCs to be used, and extended the deadline for completing the rulemaking before PWCs would be banned.

Though people may question the appropriateness of the March 2000 rule or even the settlement agreement which required all parks to complete a special rulemaking before allowing personal watercraft, my principal concern is the reasons behind the seemingly constant delays experienced by the Park Service in completing this rulemaking effort. Fifteen of the 21 parks affected by the Service-wide rule have decided to allow PWCs and have proceeded with a rulemaking. Though seven were not affected by the settlement agreement, the Park Service not only failed to complete a rulemaking for any of these parks before their self-imposed deadline, but only one park issued an environmental assessment before the ban took effect. For the seven parks with extended deadlines, only one park issued an environmental assessment before the deadline, and no parks issued a proposed rule before PWCs were banned.

It is imperative that governmental agencies be responsive in enacting appropriate policy, and I'm concerned that the Park Service has allowed this rulemaking process to languish for too long. All 15 environmental assessments conducted by the Park Service have found that personal watercraft do not cause harm to the environment to the extent that a ban is warranted. For the 5 parks that have not issued final rules, an average of nearly 30 months has passed since an environmental assessment was issued.

The Service needs to make completion of the rulemaking process a priority for them because their failures have a significant impact on the public. The Personal Watercraft Industry Association estimates a ban on PWCs by the Park Service has cost the industry \$144 million per year and 3,300 direct or indirect jobs between 2001 and 2004. One of our witnesses Laura Baughman will present a study discussing the economic impact of the bans that are now into their 4th year.

The debate surrounding personal watercraft is not about whether they harm the environment. The issue we're here to discuss today is about fairness for those who use PWCs responsibly and about the Park Service's failure to finalize the PWC rules.

I want to thank each of the witnesses certainly for agreeing to be here today, and I trust before this hearing is over the Park Service will be able to give us a time certain for when the rulemaking process for affected parks will be complete. And with that I recognize the distinguished ranking member of the subcommittee Mr. Lynch.

[The prepared statement of Hon. Candice S. Miller follows:]

***“Taking on Water: The National Park Service’s Stalled Rulemaking
Effort on Personal Watercraft”***

Opening Statement of Chairman Candice S. Miller

Committee on Government Reform
Subcommittee on Regulatory Affairs

Wednesday, March 15, 2006, 10:00 a.m.
2247 Rayburn House Office Building

Good morning. The Subcommittee on Regulatory Affairs will come to order. I would like to welcome everyone to our hearing today on the National Park Service’s rulemaking effort on personal watercraft.

Oftentimes, it seems that the government moves at its own pace. Many times, a calculated approach is warranted. But too often, government agencies seem to work at a glacial pace.

The National Park Service has been working on a rulemaking effort to allow personal watercraft—such as a Jet-Ski or a Sea-Doo and known by the acronym PWC—for six years. During this time, many self-imposed deadlines have come and gone; and I am concerned that completion of this effort is not a priority for the Service. The delays have resulted in unwarranted bans on PWCs in national parks which have a detrimental impact on small businesses and individuals that rely on sales, rentals, and service for their livelihood.

In March 2000, the Park Service issued a rule banning personal watercraft from national parks beginning in 2002. The rule identified twenty-one parks which may allow PWCs, but only after completing appropriate procedures to ensure that PWC use is appropriate.

The Bluewater Network and its parent company—Earth Island Institute—filed suit against the Interior Department and the Park Service challenging the provision of the rule that allowed ten of the identified national parks to allow the use of PWCs without having to go through a special rulemaking with a public comment period and an environmental assessment.

As part of a settlement agreement, the Park Service required all parks to complete a special rulemaking and an environmental assessment before allowing PWCs to be used and extended the deadline for completing the rulemaking before PWCs would be banned.

Though people may question the appropriateness of the March 2000 rule or even the settlement agreement which required all parks to complete a special rulemaking before allowing personal watercraft, my principal concern is the reasons behind the seemingly constant delays experienced by the Park Service in completing this rulemaking effort.

Fifteen of the twenty-one parks affected by the Service-wide rule have decided to allow PWCs and have proceeded with a rulemaking. Though seven of these parks were not affected by the settlement agreement, the Park Service not only failed to complete a rulemaking for any of these parks before their self-imposed deadline, but only one park issued an environmental assessment before a ban took affect.

For the seven parks with extended deadlines, only one park issued an environmental assessment before the deadline—and no parks issued a proposed rule before PWCs were banned.

It is imperative that government agencies be responsive in enacting appropriate policy, and I am concerned that the Park Service has allowed this rulemaking to languish for too long. All fifteen environmental assessments conducted by the Park Service have found that personal watercraft do not cause harm to the environment to the extent that a ban is warranted. For the five parks that have not issued final rules, an average of nearly thirty months have passed since an environmental assessment was issued.

The Service needs to make the completion of the rulemaking process a priority because their failures have a significant impact on the public. The Personal Watercraft Industry Association estimates that a ban on PWCs by the Park Service has cost the industry \$144 million per year and 3,300 direct and indirect jobs between 2001 and 2004. One of our witnesses—Laura Baughman—will present a study discussing the economic impact of the bans that are now into their fourth year.

The debate surrounding personal watercraft is not about whether they harm the environment. The issue we are here to discuss is about fairness for those who use PWCs responsibly and about the Park Service's failure to finalize the PWC rules.

I thank each of the witnesses for being here today, and I trust before this hearing is over, the Park Service will be able to give us a time certain for when the rulemaking process for the affected parks will be complete.

With that, I recognize the distinguished Ranking Member of the Subcommittee, Mr. Lynch.

Mr. LYNCH. Thank you, Chairman Miller. Good morning. I appreciate the members of the panel coming forward to help us work on this issue.

The mission of the National Park Service is expressly to preserve, unimpaired the natural and cultural resources and values of the National Park System for the enjoyment, education and inspiration of this and future generations. I'm a great fan of former President Theodore Roosevelt, and I have followed his life's story with great interest, and I believe that he was a man with tremendous vision, and the reason that we have such a wonderful National Park System is in large part due to his great work. He had a wonderful vision and appreciation of the beauty and the integrity of these areas that we have preserved.

The laws that established the National Park Service are fairly express in their intent. First of all, they are to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. It also goes on to say that the Park Service itself in its mission shall be—the protection, management and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System, and shall not be exercised in derogation of the values and purposes for which these various areas have been established.

So we're not talking about general shoreline. My district includes Boston Harbor, and I have a lot of folks that are boaters and jet-skiers and enjoy the water very much. We're talking about a very specific jurisdiction here; national parks. God knows, there aren't enough of them, and we all know how much they are appreciated more and more by each succeeding generation.

The National Park Service laws and regulations gave the agency broad authority how to make decisions about how to balance visitor recreation with the need to preserve each park's resources. Courts have consistently held that when there is a conflict between conservation and visitor recreation, conservation is the most important consideration. It's in this context that the National Park Service must make decisions about how to manage visitor activities.

Today we're looking at one particular activity, the use of jet-skis or personal watercraft in national parks. Personal watercraft, more popularly known as jet-skis, are marketed as so-called thrillcraft. One current advertisement touts the jet-ski's ability to allow aggressive turning and high-speed stability. Another advertisement promotes the fun and adventure and independence when it meets the power, performance and style of the jet-ski.

This hearing is not about whether America should or shouldn't buy or use personal watercraft. I think wonderful technology and in the right place, it is a lot of fun, and I see a lot of people in my district enjoying that. This hearing is not about whether people should partake in that activity, which is fine and should be encouraged, but whether the use of these watercraft can be reconciled with the need to conserve the precious resources of each national park.

The National Park Service has found that there are unique concerns related to the personal watercraft, and that those concerns

should be considered in evaluating whether and how they should be allowed in certain parks. Personal watercraft are designed for speed and maneuverability to perform stunts. One of the concerns associated with personal watercraft is the noise associated with their use, in part because they're often operating very close to the shore.

Additionally, personal watercraft have a shallow draft, and I know we've had studies along the Cape Cod seashore that have indicated that there's been some damage because these jet-skis can go where other watercraft cannot, and they're able to access areas including those close to the shoreline, which can affect vegetation and wildlife.

Personal watercraft emit air and water pollution, which can have an impact on air and water quality. A conventional engine can discharge between 1 and 3 gallons of fuel during 1 hour of use at full throttle. I understand the industry is working on improving that technology, and that there are cleaner, better technology engines that are becoming available; however, there are still many, many vehicles with the conventional engines still in use.

An important issue related to personal watercraft, no matter where they are, is safety, and the U.S. Coast Guard reports that personal watercraft accounted for about 25 percent of boat accidents in 2004, with more than one-third involving riders age 19 or younger. So the safety issue has to be met within the National Park Service if this activity will go forward. We need to put the funding in to make sure that safe handling of these vessels can be managed and that people who may have these accidents which are shown to occur can be rescued, can be protected.

The National Park Service is still in the rulemaking process for five parks where personal watercraft is being used or actually is being considered. Though these rulemakings may have taken longer than anticipated, this is not an easy process. For one thing, the National Park Service is facing enormous resource constraints. There's only one full-time staff person right now handling all of the National Park Service regulation, including personal watercraft regulation.

For each park where the National Park Service determines that personal watercraft may be allowed, it's important that the agency carefully and thoroughly analyze how personal watercraft will impact the park, including the potential impact on plants, wildlife, water and air quality and other visitors.

Even if a determination is made that personal watercraft use is appropriate, the park must also determine how to manage that use in order to best preserve the park's resources and provide for the safety of those individuals using the watercraft. The National Park Service must balance that interest of visitors wishing to ride personal watercraft within the agency's mission to preserve the resources of each park for generations to come.

I appreciate all the witnesses taking their time to help the committee on their work here today and to share their thoughts on this issue, and I look forward to the testimony.

Thank you, Madam Chair. I yield back.

Mrs. MILLER. Thank you very much, Mr. Lynch.

I would now like to recognize Mr. Cannon for an opening statement.

Mr. CANNON. Thank you, Chairman Miller. I appreciate this hearing, it's very important to me. I appreciate your indulgence. I have two markups going on, and I wanted to apologize, too, for not being able to indulge in our witnesses because the issue is important.

The purpose of the hearing is to examine the rulemaking process at the National Park Service governing personal watercraft use. It's difficult to examine the rulemaking process where there doesn't actually seem to be a process. The Park Service has issued rulings regarding which parks allow use of PWCs and which can't. The NPS has complicated matters by delaying completion of this process in a variety of ways for almost 6 years, thereby making this process completely unclear.

As an aside, I chair the Judiciary Subcommittee on Commercial and Administrative Law, and we're doing a review of the Administrative Procedure Act, and this is going to be one of those issues we take a look at.

This lack of clarity has left many national parks in a state of limbo, unsure whether they will be allowed to grant access to PWCs, and the bureaucratic nature of the NPS has resulted in the loss of revenue for a major industry, the loss of numerous jobs, and the subsequent loss of revenue for our economy as a whole. The PWC Industry Association estimates that the bans by NPS cost the industry about \$144 million a year directly. That does not include all the people that are supported by and employed in the business of renting and maintaining and the tourism that comes from this. The PWIA estimates that the National Park Service bans will cost about 3,300 direct and indirect jobs in 2000 and 2001.

We are not here to talk about the environmental impact of PWCs to date. That issue has been determined and environmental studies conducted in each park that PWCs would be allowed. In fact, it has been a average of nearly 30 months since the environmental assessments for each of the parks was released.

The issue of this hearing, and my concern, is the government could be such a destructive force to business just by delay. The PWC industry has played by the rules and waited patiently for NPS to complete the rulemaking procedures, yet NPS has continuously shirked its responsibility. The NPS needs to be accountable for the slowness and the gross negligence of this process. NPS must answer why there's never been a scientific study conducted to support the legitimacy of the systemwide PWC bans that exist today in the national parks. The NPS must respond to the numerous requests by Members of Congress to reconsider NPS bans that have been never subject to an environmental assessment, and explain why it's created a rulemaking process that condemns an industry by making the default policy an immediate ban on their products.

By the way, for those who haven't used PWCs, you're invited to come to the most beautiful place on the face of the Earth, which used to be in my district, but not now, but Lake Powell. It is a place where it is directly affected by this. Nobody wants to damage the environment, but ski jets are a lot of fun, and it's a great industry.

In its enabling statute, Congress instructed the NPS to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment in such manner and by such means as will leave them unimpaired for the enjoyment of future generations. I won't sit here and deliberate whether NPS achieves the mission; however, I would think it wise for the decisionmakers in this particular situation to let this committee know whether the issue of delaying PWC fits within its mission. As it stands, preservation doesn't appear to be the driving force behind the rulemaking process.

I look forward to your testimony and with that yield back the balance of my time, Madam Chairman.

Mrs. MILLER. Thank you very much.

You are certainly excused whenever. We appreciate your attendance here for your opening statement. And it is widely acknowledged that Lake Powell is a beautiful place on the planet, of course surpassed a bit by Lake St. Clair in Michigan.

Mr. CANNON. The stark beauty of the bright red sandstone and the bright blue water, and the clear, cloudless sky unimpaired by all those trees that hide your landscape.

Mrs. MILLER. All our water is fresh. However, I will say this: There is a lot of interest—before we get to the witnesses, there obviously is a lot of interest amongst the Congress. This is not a partisan issue, and many people are very parochial about their parts of the Nation that we all represent, and this is a very hotly debated issue, as you might imagine. And, in fact, before we get to the witnesses, let me also state for the record that both Chairman Pombo, who is the Chairperson of the House Resources Committee, and Representative Steve Pearce, who is the chairman of the resources Subcommittee on National Parks, both wanted to be here for the hearing, but they were unable to come because of their schedules. However, Chairman Pearce had actually held a hearing on this topic in May 2005. Both of them obviously have a strong interest in seeing the Park Service complete the rulemaking effort. They have a written statement, and, without objection, both of them will be submitted to the record.

And we are joined by Mr. Akin. I recognize Mr. Akin for an opening statement as well.

Mr. AKIN. Thank you very much, Chairwoman, for holding this important hearing today, and I'm not actually a member of the Government Reform Committee, but I am the chairman of the regulatory oversight, Committee on Small Business. So we have a shared interest in your hearing today, and I wanted to congratulate you on taking up a topic that I think is very important.

I'm deeply concerned by what appears to me to be a continued delay in the Park Service in working through this issue over a period of a number of years, which appears to have lost many jobs over the last 9 years and has had a considerable impact on small business, particularly in the area of the watercraft that are near these different various parks that are affected.

I don't know that I need to probably reiterate what I think, Chairwoman, that you probably made clear in this committee, the fact that small businesses are a very, very large part of jobs in America and a very significant part of our economy overall. And I

just think we have to get past the foot-dragging state, and I understand it's a controversial issue, but have to come to our conclusions.

I did have questions and things, but I have two other committees I'm supposed to be at as well, so thank you very much for letting me join you and weighing in to say let's get off the nickel, and let's get moving on this project. Thank you.

Mrs. MILLER. Thank you very much. I appreciate your attendance.

[The prepared statement of Hon. W. Todd Akin follows:]

**Remarks for Government Reform Committee- Subcommittee on
Regulatory Affairs**

First, I would like to take this opportunity to thank the Chairwoman for holding this important hearing today. Since I am not an actual member of the Government Reform Committee, I would also like to thank you for allowing me to be in attendance today.

As Chairman of the Regulatory Reform and Oversight subcommittee of the House Small Business Committee, I am disheartened by the fact that the National Park Service continues to fail to meet in a timely fashion its promised deadlines for completing environmental assessments regarding the use of personal watercrafts at various units within the National Park Service.

This continued delay by the Park Service has resulted in the loss of thousands of jobs over the last nine years and in particular has had a considerable impact on small businesses in these areas that rely on the sales of personal watercrafts.

There is no doubt that small businesses are the backbone of our economy, they pay the majority of our nation's taxes and employ the majority of our nation's workforce. To continue to drag out this process for nearly six years places an undue burden on these businesses that is simply unacceptable.

It is my hope that this hearing will help promulgate further action on the part of the National Park Service to move forward in this process and I look forward to hearing the testimonies of the witnesses today.

Mrs. MILLER. It's the committee's process to ask all the witnesses to be sworn in before you do testify, so if you could all rise and raise your right hands.

[Witnesses sworn.]

Mrs. MILLER. We appreciate that.

With the indulgence, what I would like to do is recognize Mr. Cannon for several questions. I know he has a markup and needs to leave. So before we actually have our testimony from the witnesses, Mr. Cannon.

Mr. CANNON. That is very kind of you. I deeply appreciate it. I would look forward to the witness testimony and wish them the best.

If you don't mind, I just have a few questions for you, Ms. Taylor-Goodrich. Given the amount of time that's elapsed since the file rule was established and the grace period has expired, wouldn't it be reasonable to open the remaining parks so another boating season isn't missed?

Ms. TAYLOR-GOODRICH. Good morning. Can you hear me? Thank you. Karen Taylor-Goodrich, Associate Director for Visitor and Resource Protection.

Your question I understand to be can we open—

Mr. CANNON. Quickly so we don't miss a season.

Ms. TAYLOR-GOODRICH. We're not considering that option at this point. We are not considering that option.

Mr. CANNON. Are you saying that the timing of the coming boating season is not being considered by the Park Service?

Ms. TAYLOR-GOODRICH. We are in the process of our rulemaking we anticipate, which I'll cover in my testimony as well and give you an update on where we are with each of the parks. We need to have everything in place by this summer.

Mr. CANNON. By this summer, what month does that mean in particular?

Ms. TAYLOR-GOODRICH. I can cite specific examples. We're looking at in one case for Big Thicket National Preserve the summer of 2007.

Mr. CANNON. So are we talking about June or the end of August?

Mrs. MILLER. Could you move your mic a little closer? I'm not sure if it's working.

Ms. GOODRICH-TAYLOR. I would also like to ask—I'm not sure you can hear me.

If permissible, I have our regulations program sheet with me that can provide detailed information.

Mr. CANNON. Are you looking at trying to get this implemented; so have you considered it in the past? Rulemaking has its own timeframes. Have you considered doing this in a way that would optimize this summer season? We don't use PWCs when it's cold. So is that part of the thinking, and if so, are we working at the beginning of the summer or calling it summer when it's really August 31st?

Ms. TAYLOR-GOODRICH. Depending on the park and where they are in the rulemaking process, the earliest would probably be June. But we are responsible and obligated to follow the 2000 rule and settlement agreement where we have to follow through with all parts of the rulemaking process before we allow opening that.

Mr. CANNON. Members of Congress have requested the NPS reconsider the ban by starting the process of an environmental assessment. It is my understanding that NPS ignored these requests. Can you tell me why these were ignored, and what's going to happen with the new Biscayne National Park petition?

Mrs. MILLER. Could I ask, Mr. Garcia, perhaps you can pass that microphone over to her. For some reason our wonderful technology has failed.

Ms. TAYLOR-GOODRICH. Is that better?

Your question is what is the status of Biscayne National Park.

Mr. CANNON. Yes.

Ms. TAYLOR-GOODRICH. The petition we have received, we are in the process of responding, preparing a response to that petition.

Mr. CANNON. Do you know the timeframe for responding to that petition?

Ms. TAYLOR-GOODRICH. We should have it to the industry within about a week and a half, 2 weeks. It's already in process and needs to be reviewed by final legislative affairs and then our Director to sign.

Mr. CANNON. Since the NPS began to examine the environmental impacts, PWCs—numerous environmentally friendly models have been created. What steps have you taken to include this in your rulemaking process?

Ms. TAYLOR-GOODRICH. Each area that we are going through rulemaking is required to do an environmental impact. It's an environmental analysis [EA], pursuant to the policy acts, and that's where we look at alternatives in considering new technologies.

Mr. CANNON. Have you done that with the new motors, the new versions of PWCs?

Ms. TAYLOR-GOODRICH. I'd have to ask our program manager specifics on that.

Mr. CANNON. Would you make sure that you do that?

Ms. TAYLOR-GOODRICH. Absolutely.

Mr. CANNON. How can NPS continue to support a complete PWC prohibition in the absence of any relevant studies?

Ms. TAYLOR-GOODRICH. We are managing our parks pursuant to what our organic legislation allows us to. We have determined through the 2000 rule that there are 21 parks that could be considered for PWC use. We still feel very comfortable with that decision. Each park is unique in itself, and we can't have a one-size-fits-all, open policy. The determination was made for appropriateness in those 21 parks, so each environmental analysis would account for localized conditions, and a complete ban is really pursuant to our legislation in those individual parks.

We have 390 units in the National Park System, 21 of which were determined to be suitable because they allow in their legislation motorized motorboat use. And we consider PWCs in the same category, in essence, as motorboats. That's how they were determined.

Mr. CANNON. Embedded in your answer is motorboats can be used in these areas, but PWCs can't until you make a ruling. Why is that?

Ms. TAYLOR-GOODRICH. They're considered a motorized vessel. They are a different kind vessel because they have a shallower

draft, and they get into areas that are certainly more shallow, but ecologically sensitive.

Mr. CANNON. Why is the presumption they can't be there until sometime, somewhere, somehow NPS acts?

Ms. TAYLOR-GOODRICH. National Park Service Organic Act allows for the National Park System to err on the side of conservation. Mr. Lynch read the statement from our mission where we are responsible certainly for the enjoyment, for visitor enjoyment, but our primary purpose is for conservation of natural and cultural resources. There are certain areas, and we can provide more detailed answers, if you would like.

Mr. CANNON. Why is the presumption that you can't use PWCs, and then you have this almost infinite—at least in the life cycle of business products, 6 years is an incredible amount of time that the NPS has not done anything. The delay has injured business, hurt business, I think hurt the parks, not allowed people to enjoy them the way they can. While you can speed around and make very sharp turns, as Mr. Lynch mentioned, and have a lot of fun with these things, they take you into these areas and allow for enjoyment.

Why is there a presumption? I haven't heard what the context is for a presumption they shouldn't be allowed. You can distinguish them from boats, but why do you do so?

Ms. TAYLOR-GOODRICH. Back in the 1980's and then on into the 1990's when they became much more popular in national parks, the technology at that time was much rougher, as well as a little noisier, more cumbersome.

Mr. CANNON. Did you make findings that those older models would damage the environment, or did somebody say, we don't like these, people are enjoying them too much, let's use our authority as an agency to prevent the activity until we figure out how to do it better. Was there a finding or just a conclusion by the system?

Ms. TAYLOR-GOODRICH. Our rulemaking in 2002 identified those areas where it would be appropriate to allow PWCs by virtue of the kind of parks that they were. The National Park Service, as part of our mission we have the responsibility to look at various types of use, and since PWCs are one type of use, since we have over 273 million visitors to the National Park System, we have to consider the visitor experience for all visitors, and the 2000 rule identified those areas where it would be appropriate, no matter what the technology would be, even though we are looking, to answer your question, and we take into those accounts those technologies at the areas where it's appropriate.

But it's our responsibility as the National Park Service to determine—we start from a point of nonmotorized use except where motorized boats are allowed in specific legislation as a baseline for the National Park Service. We work our way up on appropriate levels of motorized use after that. The 2000 rule is what allowed us to have those 21 parks to be considered for PWC use.

Mr. CANNON. Madam Chairman, I notice my time has expired. I can understand why the industry is so frustrated, and yield back.

Mrs. MILLER. Thank you very much. Again, we appreciate your attendance, Mr. Cannon, as we've gone a bit out of order here.

But let me introduce our first witness who's already done some testifying here this morning, Karen Taylor-Goodrich. She's the Associate Director for Visitor and Resource Protection at the National Park Service. She has served as a Deputy Associate Director for Park Operations and Education, also held a wide range of positions within the Park Service that includes natural and cultural resource management, back country wilderness management, and visitor services as well.

She's even served as a ranger with the National Parks and Wildlife Service at a national park in New South Wales, Australia. She earned her Bachelor's of Science degree in geography from Portland State University in Oregon and has done graduate work in natural resources through the Park Service Natural Resources Management Trainee Program.

We welcome you here this morning. The floor is yours. You already had a bit of the flavor of these boxes that you have in front of you with the light system that we use, so we ask you to try to keep your testimony to not much longer than 5 minutes, if you could. Although, we'll let you go a little over if you need to. The yellow light is a 1-minute caution and the red is a 5.

STATEMENT OF KAREN TAYLOR-GOODRICH, ASSOCIATE DIRECTOR FOR VISITOR AND RESOURCE PROTECTION, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY JERRY CASE, REGULATIONS POLICY PROGRAM MANAGER

Ms. TAYLOR-GOODRICH. Thank you very much. And good morning again, Ms. Chairman, members of the subcommittee. We do appreciate you holding this oversight hearing to take a look at PWC and the National Park System. I'll read from my testimony. I won't cover every point, but I'd like to refer to it.

Providing for the enjoyment of the national parks' resources and values is the fundamental part of what we do in the National Park Service. That's for all units, all 390 units, of the National Park System. The desire to provide access to park resources is the reason we have roads, accommodations, other recreational facilities in our national park units. It's also the reason that we continuously seek ways to provide appropriate recreation opportunities and to improve the experience for all of our 273 million-plus visitors.

Among the types of recreational uses currently permitted in national parks, PWCs became popular in the 1980's, throughout the 1990's and currently. Since that time, watercraft use has occurred at some level in approximately 32 of the 87 areas of the National Park System that allow motorized boating. We have grouped personal watercraft among other motorized vessels. Historically, PWC use within the unit was allowed with special regulations published within a Superintendent's Compendium, when it allowed for use by other vessels. In the late 1990's, 87 park units allowed motorized boating, including PWCs.

One of the questions Representative Cannon had was why do we have a ban, a universal ban? We start from that point pursuant to the Organic Act, but given the wide variety of our units, the appropriateness of a given recreational activity will vary from park to park. An appropriate use is based first on the mandated purpose

established by the park's enabling legislation as well as a sensitivity to the resources, values and visitor access. And due to these differences, our management policies recognize that an activity that is appropriate when conducted may be inappropriate conducted in another type of park.

As you mentioned earlier, Ms. Chairman, in 1998, the Bluewater Network filed a petition urging the NPS to initiate rulemaking to prohibit personal watercraft throughout the National Park System. In response to the petition, we conducted an analysis of the original 87 sites, examining enabling legislation, resource sensitivity, values, and visitor access; and then in March 2000, we published a final regulation identifying 21 units of the National Park Service that could continue PWC use.

The final rule gave park managers until September 2002 to determine whether to pursue a new rulemaking procedure to continue PWC use in the 21 units. In August 2000, we negotiated a settlement agreement with the Bluewater Network and its parent organization, as you mentioned, the Earth Island Institute. This was in response to a lawsuit from those organizations that challenged our decision to allow personal watercraft in those 21 units.

The settlement agreement was very specific. It specified that no PWC use within the National Park System after September 15, 2002, could be pursued without a comprehensive environmental analysis and a rule allowing the use in that unit. The environmental analysis pursuant to that settlement must include impacts on water quality, air quality, sound, wildlife, shoreline, vegetation, visitor conflict and visitor safety.

Of the 21 units originally considered in the rule for continued PWC use, 5 units made administrative determinations to not allow PWCs. This determination was based on the unit's legislative history, regulatory authorities, and the required environmental analysis factors. Each determination was made with public participation, including public meetings and participation by advisory commissions and State and local governments.

Ten of the 15 remaining parks have completed the rulemaking process and are open to PWC use. The remaining five are in the process of complying with the National Environmental Policy Act and promulgating regulations pursuant to our settlement agreement.

Gulf Islands National Seashore is currently under final signature review and should be published in the Federal Register very shortly. The final rule for Cape Lookout should be published before the summer season. Final rules for Gateway and Curecanti should be published in midsummer of 2006. Big Thicket's finishing their NEPA work right now, and will promulgate rulemaking shortly.

Since 2000, we have devoted substantial resources to the study of appropriate methods of managing personal watercraft in units in the National Park System. The laws and policies applicable to the management of the National Park System afford us as the National Park Service broad discretion and mandate no single method for satisfying our responsibility to protect park resources. We can use a variety of administrative tools, including: visitor education, increased enforcement, regulatory measures, including seasonal clo-

tures and flat wake zones; and use limits, including numerical caps, to manage these personal watercraft use areas.

For example, Lake Mead National Recreation Area established a lake carrying capacity, implemented management zoning to separate recreational activities, and is incorporating a phase-in of cleaner engine technologies. Glen Canyon Recreation Area, that's Lake Powell that Mr. Cannon referred to, PWCs continue to be very popular, with increased use of PWCs up about 12 percent since 2001.

In those areas where PWC use is allowed, the parks will rely heavily on our partners in the gateway communities to educate visitors and encourage responsible and safe use of our PWCs. We also rely on industry to develop new technologies that may help parks balance visitor use and resource conservation.

In conclusion, we're dedicated to improving recreation opportunities for all park visitors, and we also provide opportunities to the public, including PWC users where appropriate, to increase recreational opportunities.

I appreciate very much the opportunity to speak before you. I mentioned earlier that I have our regulations policy program manager Jerry Case here to be available for questions as appropriate.

Mrs. MILLER. Thank you. Appreciate that.

[The prepared statement of Ms. Taylor-Goodrich follows:]

**STATEMENT OF KAREN TAYLOR-GOODRICH, ASSISTANT DIRECTOR,
VISITOR RESOURCE AND PROTECTION, NATIONAL PARKS SERVICE,
DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON
NATIONAL PARKS OF THE HOUSE SUBCOMMITTEE ON REGULATORY
AFFAIRS, ON THE RULEMAKING PROCESS AT THE NATIONAL PARKS
SERVICE GOVERNING PERSONAL WATERCRAFT USE, PARTICULARLY
THE STATUS OF INDIVIDUAL RULEMAKINGS.**

March 15, 2006

Ms. Chairman and Members of the subcommittee, thank you for holding this oversight hearing on personal watercraft (PWC) use in the National Park System.

Providing for the enjoyment of park resources and values is part of the fundamental purpose of all units of the National Park System. The desire to provide access to park resources is the reason roads, accommodations, and recreational facilities have been built in national parks. It is also the reason that we continuously seek ways to provide appropriate recreation opportunities and to improve the experience for all our visitors.

Among the types of recreational uses currently permitted in national parks, personal watercraft use became popular in the 1980s. Since that time, personal watercraft use has occurred at some level in approximately 32 of the 87 areas of the National Park System that allow motorized boating.

The National Park Service (NPS) has grouped personal watercraft with all other vessels. Historically, people could use personal watercraft within a unit when special regulations published within the Superintendents Compendium allowed the use of other vessels. By the late 1990s, 87 park units allowed motorized boating, including PWCs, and the NPS

had specifically addressed personal watercraft use at only seven of those units. Through the implementation of horsepower restrictions, general management plan revisions, and park specific regulations, the NPS had prohibited use at Yellowstone and Everglades National Parks and had restricted use in four other units.

Given the wide variety of park units, the appropriateness of a given recreational activity will vary from park to park. An appropriate use of a park is based, first, on the mandated purposes established by individual parks enabling legislation, as well as the sensitivity of the resources, values, and visitor access. Due to these differences, the NPS Management Policies recognize that an activity that is entirely appropriate when conducted in one location may be inappropriate if conducted in another.

In 1998, the Bluewater Network filed a petition urging the NPS to initiate a rulemaking process to prohibit personal watercraft use throughout the entire national park system. In response to the petition, NPS conducted an analysis of each of the original 87 sites, examining the enabling legislation, resource sensitivity, values, and visitor access. In May 2000, the NPS published a final regulation identifying 21 units of the National Park System that could consider continued PWC use. The service-wide regulation (36 C.F.R. 3.24) states that PWC use may only be designated at the 21 units identified in the regulation. The final rule gave park managers until September 2002 to determine whether to pursue a new rulemaking procedure to continue to allow PWC use in each unit.

In August of 2000, the NPS negotiated a settlement agreement with the Bluewater Network and its parent organization, The Earth Island Institute. The settlement agreement was in response to a lawsuit that challenged the above NPS decision to allow continued personal watercraft use in 21 units while prohibiting personal watercraft use in other units. The settlement agreement specified that there would be no PWC use within any unit of the National Park System after September 15, 2002, without a comprehensive environmental analysis and a rule allowing that use in the unit. Under the requirements of the settlement agreement, each environmental analysis must, at a minimum, evaluate personal watercraft regarding eight resource topics: impacts on water quality, air quality, sound, wildlife, wildlife habitat, shoreline vegetation, visitor conflict, and visitor safety.

Of the 21 units originally considered in the service-wide rule for continued PWC use, five units have made an administrative determination not to complete the rulemaking process to allow PWCs. This determination was based on an assessment of a unit's legislative history, regulatory authorities, and the required analysis of sound, air quality, wildlife safety concerns, visitor use, and the purpose for the park as described in its authorizing legislation. Each determination was made with public participation, including public meetings and participation by advisory commissions and state and local governments.

Ten of the 15 remaining parks have completed the rulemaking process and are open for PWC use. The remaining five parks are in the process of complying with the National Environmental Policy Act (NEPA) and promulgating regulations. The final rule for Gulf

Islands National Seashore is currently under final signature review and should be published in the Federal Register in the very near future. The final rule for Cape Lookout National Seashore should be published before the summer season. The final rules for Gateway National Recreation Area and Curecanti National Recreation Area should be published during mid-summer of 2006. Big Thicket National Preserve is finishing their NEPA work and, upon completion, will promulgate rulemaking immediately.

Since 2000, the NPS has devoted substantial resources to the study of appropriate methods of managing personal watercraft in units of the National Park System. The laws and policies applicable to the management of the National Park System afford the NPS broad discretion and mandate no single method for satisfying our responsibility to protect park resources. The NPS can use a variety of administrative tools, including visitor education, increased enforcement, regulatory measures such as seasonal closures or flat wake zones, and use limits (numerical caps or those related to time-of-day) to manage personal watercraft use. None of the alternatives selected by the NPS included findings that use of PWCs under that alternative would cause significant environmental impacts.

By utilizing these management strategies, units such as Lake Mead and Glen Canyon National Recreation Areas continue to be known as premier locations for water-based recreation. For example, the Lake Mead National Recreation Area (NRA) Lake Management Plan (NPS 2002) established a lake carrying capacity, implemented management zoning to separate recreational activities, and is incorporating a phase-in of cleaner engine technologies. Lake Mead NRA has also made a significant investment to

support boating education with the construction of the Boating Education Center. This contemporary classroom facility is available to all organizations that offer courses on boating safety.

In Glen Canyon National Recreation Area (NRA), PWCs continue to be a very popular recreational activity and their use has increased 12 percent since 2001. Glen Canyon NRA continues to conduct and implement the various studies identified in the Final Rule for Personal Watercraft Use in Glen Canyon National Recreation Area (May 2003). This information will allow management the ability to apply adaptive management principles to areas on Lake Powell to maximize a positive and safe experience for all park visitors.

In those areas where PWC use is allowed, the parks rely heavily on our partners in the gateway communities to educate visitors and encourage responsible and safe use of PWCs in our parks. The NPS also relies on industry to develop new technologies that may help parks balance visitor use and resource conservation.

In conclusion, the NPS is dedicated to improving recreation opportunities for all park visitors and will continue to seek to provide opportunities to the public, including PWC users, where appropriate.

Thank you, Ms. Chairman, for inviting the NPS to testify on the use of personal watercraft in the National Park System. I would be happy to answer any questions you or any Members of the subcommittee may have.

Mrs. MILLER. Our next witness this morning is Mr. Fernando Garcia, director of public and regulatory affairs, with Bombardier Recreational Products, with U.S. operations based in Wisconsin. In 1986, he became a marine engineering manager with Yamaha Motor Corp. USA, charged with product planning and validation for the company's outboard and stern drive engines and recreational fishing boats. In 1995, he joined Bombardier where his responsibilities include public affairs and regulatory compliance of all product lines on a domestic and international scope. We welcome to you the hearing.

STATEMENT OF FERNANDO GARCIA, DIRECTOR OF PUBLIC AND REGULATORY AFFAIRS, BOMBARDIER RECREATIONAL PRODUCTS

Mr. GARCIA. Good morning, Chairwoman Miller, distinguished members of the committee. Thank you for this opportunity to represent the personal watercraft industry and Bombardier Recreational Products [BRP]. Again, my name is Fernando Garcia. I am chairman of the board of the Personal Watercraft Industry Association and director of regulatory and public affairs of BRP.

I'm here to address this subcommittee on a very important issue, the National Park Service's ban of personal watercraft. In order to illustrate the nature and the consequential economic damage of the PWC bans, I feel I must take a moment to update you on the state of the personal watercraft market today.

In the mid-1990's, nearly 200,000 personal watercrafts were sold annually in the United States, and in 2005, it is estimated that only some 80,000 units were sold. There is no doubt in my mind, and I'm 100 percent certain, that the bans implemented at the National Park Service level are primarily to blame for this substantial decline.

Early generation personal watercrafts were mostly stand-up, single-type vessels, as we have displayed on our boards. Critics of the vessels still attempt to portray this outdated image of the product as current reality. The truth is that personal watercrafts have evolved. They are sit-down models, mostly equipped with clean-running engines like the one in your automobile; family oriented vessels, as they accommodate up to three persons. They account for 99 percent of the PWC market.

In the 1990's, PWCs were criticized over their sound level and concerns with air and water emissions. The industry responded by investing over \$1 million in the last 10 years in new technologies. Today's PWCs are among the cleanest, quietest boats on the water, and indeed they are boats.

Industrywide, any new PWC model uses cleaner-running four-stroke or newer two-stroke engine technologies that have reduced emissions by at least 75 percent, and in many cases much more, well ahead of the enforcement schedules. New models are also 70 percent quieter than those produced before 1998.

More importantly, the National Park Service's own environmental assessments have confirmed time and time again that PWC use will neither impair nor significantly impact the environment or human health. Fifteen parks, not 1, not 2, but 15, have taken the time to evaluate PWCs, and the National Park Service has decided

that PWC use is appropriate, will not impair park resources, and should resume.

Unfortunately, critics of PWCs continue to use inaccurate and outdated information to justify PWCs owners from operating their craft in areas where other forms of motorized motorboating are allowed. Such an example is what we heard earlier this morning of fuel spillage. This is a claim that is a very case-specific, very worst-case scenario that is not representative of PWCs back in that era and this era. There are other motorized marine engines that have characteristics similar to this that are in continued use.

The regulatory backlog and lack of response from the National Park Service with regards to reopening parks to personal watercraft use has been frustrating for my entire industry. In March 2000, the NPS banned PWCs systemwide, but allowed some PWC use to continue for a 2-year grace period in 21 units where other motorized boating was prevalent. The 21 units were to evaluate PWCs during this 2-year period, and, if appropriate, reauthorize continued PWC use after a grace period expired.

Due to a lawsuit brought by an environmental extremist group, the rule was effectively amended to require each of the 21 units to conduct a full NEPA analysis and complete a special rulemaking before reauthorizing PWC use. Not a single park has complied within the grace period. As a result, PWC users were effectively banned throughout the park system.

To date, only 10 units have completed the rulemaking process, while 5 other units have unexpectedly stalled in the rulemaking process, with no sign of progress for yet another boating season.

We estimate that these delays have caused my industry to suffer a \$2 billion loss based on unfounded allegations. Countless family run businesses, suppliers and others are no longer in operation because of these bans. In 2004, even Polaris Industry, a major U.S. manufacturer, ceased manufacturing personal watercraft.

We're asking this committee to no longer accept these allegations and rest on the findings of these 15 consecutive scientific studies to reopen the stalled parks immediately. The grace period expired in 2002; 4 years later the National Park Service still fails to commit to a near-term, hard deadline to complete the rulemakings.

BRP is one of the largest investors in the boating market and employs more than 1,400 people in the United States and 6,200 worldwide, with manufacturing and product development and distribution operations in Wisconsin, North Carolina, Illinois and Florida. While I take great pride that BRP is the market leader, this market is not what it should be given the investment our entire industry has made to make today's personal watercraft both environmentally and family friendly.

This decline in sales caused by the NPS bans forced us to close our headquarters of Sea-Doo activities in Melbourne, FL. Due to the decline in demand, we consolidated our teams. Nearly the entire Melbourne staff was released. My colleagues and friends were without their jobs.

In closing, our industry is seeking your assistance in this matter. We have repeatedly made the case to the National Park Service that they must streamline its regulatory process in light of their own scientific findings. Studies have shown that PWCs cause no

unique environmental harm, but still the rulemaking for the remaining six parks languish, and as long as the National Park Service bans PWCs, I fear other local lakes and seashores across the country will follow suit.

I have asked for your help to ensure the National Park Service quickly expedites the rulemakings. Each boating season that goes by with these bans still in effect has an estimated cost to the U.S. economy that exceeds \$500 million a year. We recommend that all remaining rules be issued no later than April of this year, as we asked last May 2005, so that consumers have time to purchase their personal watercraft for this boating season. I thank you for your time and concern.

Mrs. MILLER. Thank you very much.

[The prepared statement of Mr. Garcia follows:]

Mr. Fernando Garcia
Director of Public and Regulatory Affairs
BRP, U.S. Inc.

Testimony
Before the Committee on Government Reform, Subcommittee on Regulatory Affairs
United States House of Representatives

Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal Watercraft
March 15, 2006

Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

House Committee on Government Reform
Regulatory Affairs Subcommittee
Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal Watercraft
March 15, 2006
10:00 AM
2247 Rayburn House Office Building

Testimony for Mr. Fernando Garcia
Director of Regulatory & Public Affairs, BRP U.S. Inc.

Chairwoman Miller, distinguished Members of the Committee, thank you for the opportunity to represent the personal watercraft industry in addressing this subcommittee today about a very important issue that affects 1.5 million boating families and thousands of small businesses across the country.

My name is Fernando Garcia. I am the Director of Regulatory & Public Affairs of BRP U.S. Inc and the Chairman of the Board of the Personal Watercraft Industry Association. BRP is the world leader in the watercraft industry; we have re-invented the recreational and industrial vehicle market with environmentally-advanced technologies and cost-efficient, quality-driven manufacturing techniques.

BRP has manufacturing facilities in Sturtevant, Wisconsin; and Spruce Pine, North Carolina, and Benton, Illinois. We also have product development and distribution offices in Wausau, Wisconsin, Waukegan, Illinois, and Palm Bay, Florida. In total we employ more than 1,400 individuals in the United States that manufacture and distribute BRP marine products. BRP is one of the largest investors in the U.S. boating market. We manufacture America's best selling personal watercraft brand, Sea-Doo.

And while I take great pride that BRP is the market leader, this market is not what it should be given the advancements our entire industry had made to our technology to make today's personal watercraft both environmentally and family friendly. In 2005 it is estimated that some 80,000 personal watercraft were sold in the U.S. And while this is growth compared to other recent years, this is down from a peak in the mid 1990s of nearly 200,000 units. I have no doubt in my mind and I am 100% certain that my market competitors agree that the bans implemented at the national park service level are primarily to blame for this decline.

In our own case, BRP's operations have been greatly affected by the bans within the National Park Service system. BRP sales figures for personal watercraft dropped precipitously in the late 1990s when news of the potential bans came out. We felt the impact when the rumors began and we braced for the shock when the bans took effect, confident that the two-year grace period established by the Department of the Interior and the National Park Service would result in independent rulemakings that allowed for the continued and uninterrupted use of personal watercraft. This, as you know, did not happen. Not a single park unit completed a rulemaking within the two-year grace period that expired in 2002. As a result, the bans went into effect.

The decline in sales forced BRP to close an office in Melbourne, Florida. This was the U.S. headquarters of our Sea-Doo watercraft division. Due to the decline in demand we had to consolidate our teams, so the entire staff of the Melbourne office was released. My colleagues and friends were without jobs.

Another one of these painful examples is our plant in Strutevant, Wisconsin. This manufacturing site was PWC acquired because it is a large facility that could accommodate the capacity for a growth markets, but weaker demand for PWC forced us to change course and manufacture only outboard engines in Strutevant. Consequently, this manufacturing site has not grown as robustly as we once expected and we have not been able to create the new jobs that was initially projected in the mid-1990s.

The PWC Market:

In order to illustrate the unfounded nature of PWC bans and the consequential economic damage, I feel that I must take a moment to update you on the state of the personal watercraft market today. Early generation personal watercraft were mostly stand-up, single passenger vessels. Detractors of the vessels still attempt to portray this outdated image of the product as current reality. The truth is that the vessels have evolved into larger sit-down models that accommodate up to three persons, which according to a federally funded survey are enjoyed by approximately 20 million Americans over the age of 16. The "typical" PWC owner is over 40 years old, married, and is an experienced

boater. These family-oriented vessels account for 99 percent of the PWC market, while the old stand-ups account for less than 1 percent.

Because they are water jet-propelled, PWC do not have exposed propellers that could injure swimmers or underwater sea life or vegetation. Several dolphin and manatee rescue organizations in the U.S. – such as the Harbor Branch Oceanographic Institute in Florida and Scripps Institute in California – have found personal watercraft to be the safest and most environmentally-friendly vehicle for their important work.

Evolution of PWC:

In the past, PWC were criticized over their sound and concerns about air and water emissions. Our industry responded by investing tens of millions of dollars in new technologies that have made PWC among the cleanest and quietest boats on the water. Industry-wide, all newer model PWC use cleaner-running four-stroke or new technology two-stroke engines that have reduced emissions by at least 75 percent and in some cases more. Our new models not only met, but in many cases exceeded the EPA's 2006 emission reduction standards for several years already. We've been ahead of schedule.

Today's PWC are 70% quieter and meet all applicable federal and state noise restrictions. Importantly, the National Park Service's own environmental assessments have confirmed time and again that PWC use will neither impair nor significantly impact the environment or human health. Fifteen park units – not one or two, but fifteen - have taken the time to evaluate PWC and each has decided that PWC use is appropriate, will not impair park resources, and should resume.

Unfortunately, critics of PWC continue to use inaccurate and outdated information to justify banning PWC owners from operating their craft in areas where other forms of motorized boating are allowed. For many families, a PWC is the only family boat they can afford – yet they are banned in places where more expensive boats can operate.

NPS Regulatory Backlog – The problem

Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

The regulatory backlog and lack of response from the National Park Service with regards to reopening parks to personal watercraft use has been deeply frustrating for the industry. In March 2000, the NPS banned PWC system-wide but allowed some PWC use to continue for a two year “grace period” in 21 units where other motorized boating was prevalent. The 21 units were supposed to evaluate PWC during this two-year period and, if appropriate, reauthorize continued PWC use after the grace period expired.

Due to a lawsuit brought by the Bluewater Network, the rule was effectively amended to require each of the 21 units to conduct a full NEPA analysis and complete a special rulemaking before reauthorizing PWC use. Not a single park complied within the grace period. As a result, PWC users were effectively banned throughout the park system. As I noted, only 15 parks units to date have completed a site-specific environmental assessment. Every one of them has concluded that PWC use is appropriate in the unit. But only ten of those fifteen park units have completed the rulemaking process. The five other units have inexplicably stalled in the rulemaking process with no sign of progress for yet another boating season. Even the ten units that have completed the rulemaking did so years after the grace period. Businesses have suffered and boaters have been shut out for alleged reasons, allegations that we are clearly finding through the environmental assessments are completely unfounded.

Again, allegations have caused this industry direct harm. More than \$2 Billion worth of harm, and countless family-run businesses are no longer in business. This Committee should accept these allegations no longer and rest on the findings of these fifteen consecutive scientific studies and reopen the stalled parks immediately. One other park unit, Padre Island National Seashore in Texas announced in 2002 that they would be conducting an environmental assessment and going forward with the rulemaking but since that they have done neither. Now we sit here, the year is 2006. The grace period expired in 2002 and the National Park Service tells us nothing new and fails to commit to a near-term hard deadline to complete the rulemakings.

Millions of personal watercraft owners and users have been forced to wait four years past the deadline established in the NPS rule for these units to reopen, with no end in sight. There is simply no justification for this delay.

Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

Closing

Madam Chairwoman, Committee Members, we ask you for your help. We have repeatedly made the case that the National Park Service must streamline their regulatory process in light of scientific findings that show PWC cause no unique environmental harm, and in light of the economic damages these regulations have caused.

But still, deaf to our appeals, rulemakings for the remaining six parks languish. And keep in mind that as long as the National Park Service bans PWC, other local lakes and seashores across the country will follow suit. As the gold standard for parks regulation across the country, the bad example the NPS is setting hurts boaters and the industry in a much wider realm outside of the National Parks.

We implore you to put pressure on the National Park Service to quickly expedite these rule makings. Each boating season that goes by with these bans still in effect the estimated total costs to the U.S. economy is approximately \$567 million a year.

We ask that all the remaining rulemaking process be complete no later than April of this year, as requested last May 2005, so that consumers have time to purchase personal watercraft for this year's boating season.

Thank you.

Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

ATTACHMENTS TO TESTIMONY

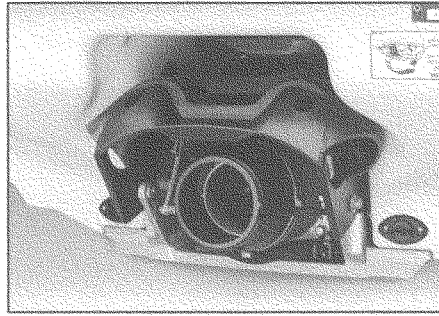


Image: PWC jet nozzle. PWC do not have exposed propellers.

THEN...

1970s, 1980s, early 1990s



1% of sales today

...NOW

1998 - Today

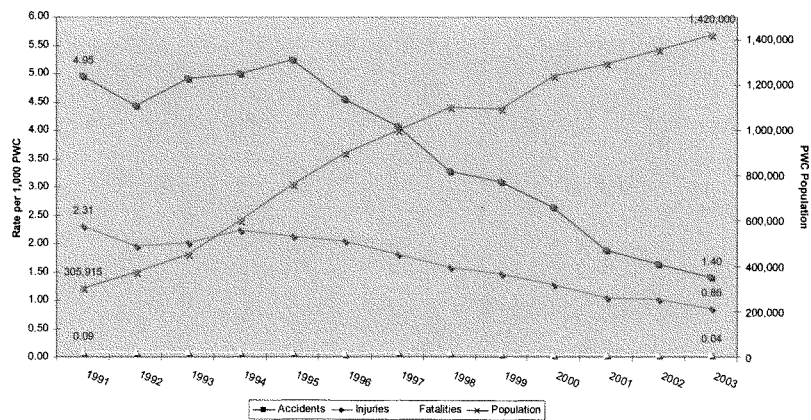


- 99% of sales = multi-person, family PWC
- 75%+ reduction in emissions
- 70% reduction in sound
- Environmentally friendly four-stroke models top selling PWC
- PWC comply with all U.S. & state emissions and sound requirements

Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

The following table shows how despite a growing PWC population (1.4 million registered PWC in 2003), accidents involving PWC have consistently declined over the past decade.

U.S. Coast Guard PWC Statistics 1991-2003



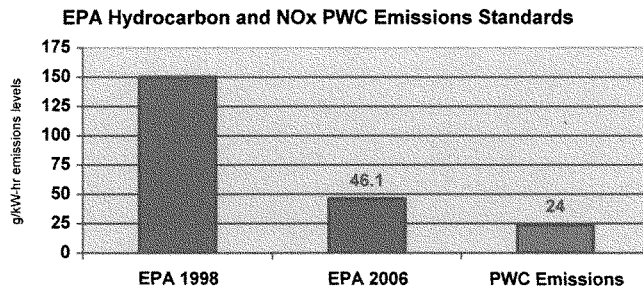
Fernando Garcia Testimony – House Committee on Government Reform
March 15, 2006

Table: Status of NPS Review and Rulemaking for PWC

NPS Status As Of 2/2/06

Park Unit	Draft EA/EIS Released	Draft Rule Released	Final Rule Released	Time From EA Release
Lake Mead (AZ / NV)	April 24, 2002	September 5, 2002	April 9, 2003	12 Months
Assateague (MD / VA)	April 1, 2002	May 6, 2002	May 30, 2003	14 Months
Lake Powell (AZ / UT)	September 14, 2002	January 17, 2003	September 25, 2003	12 Months
Armistad (TX)	April 8, 2003	October 22, 2003	May 27, 2004	14 Months
Lake Meredith (TX)	March 10, 2003	December 12, 2003	May 27, 2004	14 Months
Lake Roosevelt (WA)	April 29, 2003	February 6, 2004	June 25, 2004	16 Months
Chickasaw (OK)	March 10, 2003	March 25, 2004	September 2, 2004	18 Months
Big Horn Canyon (MO / WY)	June 11, 2003	May 5, 2004	June 1, 2005	24 Months
Fire Island (NY)	September 5, 2002	August 23, 2004	July 6, 2005	34 Months
Pictured Rocks (MI)	July 22, 2002	November 15, 2004	October 27, 2005	35 Months
Gulf Islands	April 19, 2004	March 17, 2005	February 2006 ???	22 Months
Cape Lookout (NC)	January 24, 2005	December 29, 2005	June 2006 ???	17 Months
Gateway (NY / NJ)	May 13, 2003	February 24, 2006	???	34 Months
Cuevasanti (CO)	June 13, 2003	February 2006 ???	???	32 Months
Padre Island (TX)	February 13, 2006	???	???	???
NPS Published Service-Wide PWC Rule March 21, 2000				
NPS committed to completing the unit-specific PWC rulemaking process in 18 units on April 16, 2002				
10 units are responses to PWC, 3 additional units (Gulf Islands, Cape Lookout & Gateway) have published a draft				
2 units have published EA's, but no rules				
Time elapsed from EA release to Final Rule publication has averaged 19+ months				
* indicates most recent estimates provided by NPS staff to Congressional staff on 1/31/2006				

Table: Reduced PWC Emissions Achievements (industry wide)



Mrs. MILLER. Our next witness is Laura Baughman. She's the president of the Trade Partnership, a trade and economic consulting firm. Ms. Baughman has been an economist since 1977, and she follows closely the impacts, both prospective and actual, on policies and programs on the U.S. economy and the trade flows of U.S. trading partners. The Partnership also follows the U.S. trade policy formulation process, assisting clients and providing input to that process.

We certainly appreciate your attendance here today at the hearing and look forward to your testimony now.

STATEMENT OF LAURA BAUGHMAN, PRESIDENT, THE TRADE PARTNERSHIP

Ms. BAUGHMAN. Thank you very much.

Good morning, Madam Chairwoman and members of the subcommittee. My name is Laura Baughman, and I am president of the Trade Partnership, an economic consulting firm based here in Washington, DC, that specializes in assessing the economic effects of U.S. policies and regulations. I am pleased to appear before you today to summarize the results of some research that we completed recently regarding the economic effects of the National Park Service bans on the use of personal watercraft in selected U.S. park areas.

As you know, the use of PWC has been adversely affected by consideration and implementation of bans on their use in U.S. national parks. The negative impacts of the bans and the publicity associated with the bans has resulted in lost sales since 1995, as shown on that chart over there. I'll refer to this version here because it's closer. But from here to here you can see the decline in sales.

Lost sales in turn have adversely impacted U.S. producers and distributors of PWCs, suppliers, retailers and other businesses that service PWC, and their users. The decline in sales volume grew annually from 1996 to 2001 and stabilized at about 80,000 units per year since then, down from 200,000 units in the early 1990's. Sales volumes in the 2002 to 2004 period are just 40 percent of what they were in 1995 prior to the adverse publicity about the potential for bans.

Our research examined the national impacts of the PWC bans on output and unemployment over the 1995 to 2004 period. It measured the impacts on both up and downstream industries throughout the U.S. economy. These impacts are negative and significant.

But before I detail our national findings, I think it's important for you to know the National Park Service itself is now quantifying significant adverse impacts of the bans on the local economy surrounding park areas. When it first published its rule in 1998, the NPS stated that, "it expects little, if any, economic impacts on PWC users or the PWC industry on a regional or national basis."

It based this assertion on several premises that did not turn out to be true: that a grace period during which PWC use could continue would mitigate negative impacts, and an assumption that alternative sites exist for PWC use. Subsequent economic analyses commissioned by the NPS from an independent contractor team using a technique known as input-output analysis contradicted these expectations, finding significant potential negative impacts

on regions located adjacent to the parks contemplating bans, and even negative actual impacts on those regions associated with the potential for bans.

The total annual downstream cost for the 10 parks studied so far exceeds \$86 million a year. The NPS studies found that the bans impacted local economies in three ways. First, families that might have wanted to buy a new PWC to use at a local park would no longer do so. In most instances, the local retailers reported to NPS that a ban would cause their sales of PWCs to fall by as much as 100 percent. In addition, just the publicity about possible bans caused a reduction in sales of PWC.

Second, NPS interviews found that in many instances rental income from PWC dropped by 100 percent as well.

Third, spending associated with PWC use would decline, including spending on hotels, restaurants and grocery stores, fuel and other PWC maintenance expenses, park admission and camping fees, and related State and local taxes.

Eighty-six million a year may seem like a lot, but is actually not the full picture, because the NPS-commissioned assessments only estimate, as I said, the downstream impacts of the ban, ignoring the upstream impacts on PWC manufacturers and their raw material suppliers.

In addition, the bans have had a negative impact beyond the economies nearest the parks, an impact not measured by the NPS studies. Thus, as large as the NPS estimates are, they understate the true impacts of the bans on the U.S. economy.

The purpose of our researching, using the same input-output methodology, was to look at the full picture, to estimate the up as well as the downstream impacts of the bans on the United States as a whole, not just on the economy surrounding the affected parks.

Our findings can briefly be summarized as follows. Direct cost to the PWC industry of continued uncertainty associated with the bans and the existing bans themselves is estimated to total about \$1.3 billion over the last 9 years. That's this area here. This cost affects hundreds of other sectors of the U.S. economy, bringing the total hit to the American economy of PWC bans and the negative publicity around them to \$2.7 billion over the last 9 years. That includes sectors such as Mr. Hamer's.

The estimated total cost to the U.S. economy of the bans and the negative publicity around them will continue at a pace of more than \$567 million a year as long as the bans continue. The employment cost of the bans and the negative publicity around them has grown and today averages about 3,300 direct and indirect jobs lost across the United States. This job cost will also continue as long as the bans persist.

Our results derive from conservative assumptions and factor out possible alternative reasons for declines in sales during the period. Our analysis is consistent with the studies conducted by the National Park Service, but is more comprehensive, and thus provides you with a fuller estimate of the economic effects of the bans and of continued hesitation by parks to publish final rules on PWC use.

Again, I appreciate the opportunity to present the results of this research to you today. I would, of course, be pleased to answer any questions you have about it. Thank you.

Mrs. MILLER. Thank you very much.

[The prepared statement of Ms. Baughman follows:]

Ms. Laura Baughman
President
The Trade Partnership

Testimony
Before the Committee on Government Reform, Subcommittee on Regulatory Affairs
United States House of Representatives

Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal Watercraft
March 15, 2006

Laura Baughman Testimony – House Committee on Government Reform
March 15, 2006

2

House Committee on Government Reform
Regulatory Affairs Subcommittee
Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal Watercraft
March 15, 2006
10:00 AM
2247 Rayburn House Office Building

Testimony for Ms. Laura Baughman
President, The Trade Partnership

Good morning, Chairman Miller and Members of the Subcommittee. My name is Laura Baughman and I am President of The Trade Partnership, an economic consulting firm based in Washington, DC that specializes in assessing the effects on the U.S. economy of policies and regulations.

I am pleased to appear before you today to summarize the results of some research we recently completed regarding the economic effects of National Park Service bans on the use of personal watercraft in selected U.S. park areas.

As you know, the use of PWC has been adversely affected by consideration and implementation of bans on their use in U.S. national parks. The negative impacts of the bans (and of publicity associated with the bans) has resulted in lost sales since 1995, as shown on this chart, which in turn has adversely impacted U.S. producers and distributors of PWC, their suppliers, retailers and other businesses that service PWC and their users. This chart shows that PWC sales have declined significantly in the face of actual or potential bans. The decline in sales volume grew annually from 1996-2001, stabilizing at about 80,000 units, down from the average of 200,000 units in the early 1990s. . Sales

volumes in the 2002-2004 period are just 40 percent of the volume of sales in 1995, prior to adverse publicity about the potential for bans.

Our research examined the national impacts of the PWC bans on output and on employment over the 1995-2004 period. It measured the impacts on both up- and downstream industries throughout the U.S. economy. These impacts are negative and significant.

But before I detail our national findings, I think it is important for you to know that National Park Service itself is now quantifying significant adverse impacts of the bans on the local economies surrounding affected part areas. When it first published its proposed rule in 1998, the NPS stated that it “expects little, if any, economic impact on PWC users or the PWC industry on a regional or national basis.... Significant impacts on commercial PWC operations in and adjacent to NPS units are not expected from this rule and a substantial number of small entities will not be affected.” It based this assertion on several premises that did not turn out to be true: that a grace period during which PWC use could continue would mitigate negative impacts (the grace period expired before rules restoring PWC use could be implemented, and uncertainty about the future of PWC use in a park proved to be a destabilizing factor the NPS did not foresee); and alternative sites exist for PWC use (this did not prove to be as significant a relief for PWC users as the NPS predicted).

Subsequent economic analyses commissioned by the NPS from an independent contractor team – MACTEC Engineering and Consulting of Georgia, BBL Sciences, and RTI

International -- using a common measurement technique known as “input-output analysis” contradicted these expectations, finding significant potential negative economic impacts on regions located adjacent to parks contemplating bans, and even negative *actual* impacts on those regions associated with the *potential* for bans. The total annual **downstream** cost for the 10 parks studied so far exceeds \$86 million a year.

The studies found that the bans impacted local economies in three ways: first, families that might have wanted to buy a new PWC to use at a local park would no longer do so. In most instances, local retailers reported to the NPS that a ban would cause their sales of PWC to fall by as much as 100 percent. In addition, just the publicity about possible bans caused a reduction in sales of PWC. Second, NPS interviews found that in many instances rental income from PWC dropped by 100 percent as well. Third, spending associated with PWC use would decline, including spending on hotels, food at restaurants and grocery stores, fuel and other PWC maintenance expenses, park admission and camping fees, and related state and local sales taxes.

\$86 million a year may seem like a lot, but it is actually not the full picture, because the NPS-commissioned assessments only estimate the *downstream* impacts of the bans. These are the effects on PWC retailers who sell, service or rent PWC; motels, hotels, cabins and B&Bs; camping fees; restaurants and bars; grocery/take-out stores; gas stations; providers of local transportation; park admissions and fees; clothing, sporting goods, souvenir and other retailers. In addition, the bans have had a negative impact beyond economies nearest the parks, an impact not measured by the NPS studies. As a consequence of the decline in

retail sales of PWC, *U.S. production* of PWC has dropped and with it, a reduction in orders from PWC manufacturers for raw materials, for example. Thus, as large as the estimates are, they still understate the true impact of the bans on the U.S. economy because they do not include these *upstream* impacts.

The purpose of our research, using the same input-output methodology, was to look at the full picture, and to estimate the up- as well as the downstream impacts of the bans, and to look at those impacts for the United States as a whole, not just the economies surrounding the affected park areas.

Our findings can be briefly summarized as follows:

- **The direct cost to the PWC industry** of continued uncertainty associated with the bans, and the existing bans themselves, is estimated to total about **\$1.3 billion** over the last nine years.
- This cost affects hundreds of other sectors of the U.S. economy, bringing **the total “hit” to the American economy** of the PWC bans and the negative publicity around them to **\$2.7 billion** over the last nine years.
- The estimated total costs to the U.S. economy of the bans and the negative publicity around them will continue, at a pace of more than \$567 million a year, as long as the bans continue.
- **The employment cost** of the bans and the negative publicity around them has been growing and today averages about **3,300 direct and indirect jobs** lost across the United States. This job cost will also continue as long as the bans persist.

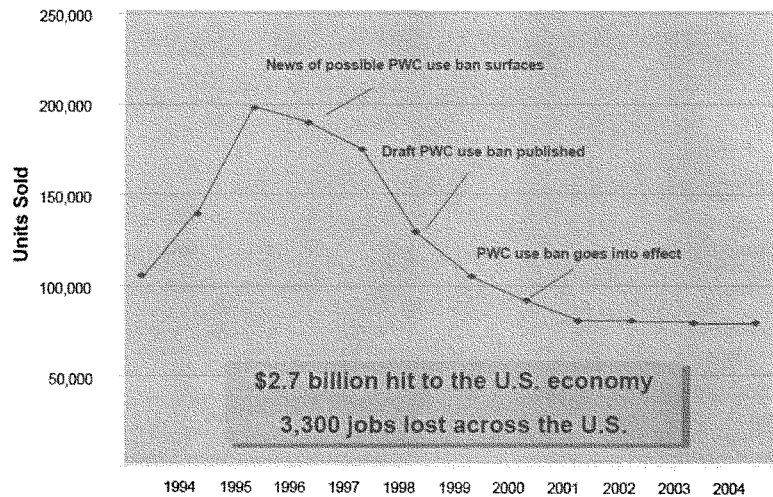
Our results are conservative. First, we measure the loss in sales from 1995 assuming that PWC sales would not have grown by so much as one unit from the 1995 level. The average annual rate of growth of non-PWC motor boat sales was stable from 1995 to 2000, declined from 2001-2003, and was strongly positive again in 2004 (based on units sold). The economy expanded briskly from 1995-2000, and one would assume that PWC sales would have tracked those of motor boats generally, or even exceeded it as PWC are less expensive than boats. Second, we removed from the base data any factor that might independently have contributed to a change in the value of sales, including the exit of one producer from the market in 1999, and the shift beginning in 2002 to larger, more technologically advanced and expensive PWC.

In short, our analysis is consistent with the studies conducted by the National Park Service, but is more comprehensive and thus provides you with a fuller estimate of the economic effects of the bans and of continued hesitation by several parks to publish final rulings on PWC use.

Again, thank you for the opportunity to present the results of this research to you today. I would of course be pleased to answer any questions you have about it. Thank you.

ATTACHMENTS TO TESTIMONY

Bans in the National Parks Have Had a Negative Impact on PWC Sales 1994-2004



The Trade Partnership

Analysis of the Economic Impact of the Ban on Use of Personal

Watercraft by the National Park Service

February 2006

Executive Summary

Use of personal watercraft (PWC) in the United States has been adversely affected by consideration and implementation of bans on their use in U.S. national parks. The negative impacts of the bans (and of publicity associated with the bans) has resulted in lost sales since 1995, which in turn has adversely impacted U.S. producers and distributors of PWC, their suppliers, retailers and other businesses that service PWC and their users.

This report examines the national impacts of the PWC bans on output and on employment. It examines the impacts on both up- and downstream industries throughout the U.S. economy. These impacts are negative and significant.

- **The direct cost to the PWC industry** of continued uncertainty associated with the bans, and the existing bans themselves, is estimated to total about **\$1.3 billion** over the last nine years.
- This cost affects hundreds of other sectors of the U.S. economy, bringing **the total “hit” to the American economy** of the PWC bans and the negative publicity around them to **\$2.7 billion** over the last nine years.
- The estimated total costs to the U.S. economy of the bans and the negative publicity around them will continue, at a pace of more than \$567 million a year, as long as the bans continue. (This estimation is based on the total costs per year calculated from 2001-2004.)
- **The employment cost** of the bans and the negative publicity around them has been growing and today averages about **3,300 direct and indirect jobs** lost across the United States. This job cost will also continue as long as the bans persist. (The estimation of this average is based on the job losses incurred after bans went into effect; from 2001-2004.)

Introduction

This report assesses the economic impacts of bans on the use of personal watercraft (PWC) by the National Park Service (NPS) throughout the park system. PWC are water vehicles more commonly known by manufacturers’ brand names, including JET SKI®, WaveRunner®, AquaTrax® and Sea-Doo®. The stereotypical image of PWC—stand-up vessels powered by conventional carbureted two-stroke engines—is outdated. Today, the majority of the vessels that PWC companies manufacture and distribute are larger sit-down models that are less than 16 feet in length, seat up to three people, and have cleaner-running four-stroke and direct-injection two-stroke inboard motors. These PWC are very similar to small motorboats—indeed, they can pull a water skier. Multi-person PWC models today account for 99 percent of the market.

Four companies currently sell PWC in the U.S. market—Honda (AquaTrax®), Kawasaki (JET SKI®), Yamaha (WaveRunner®) and BRP (Sea-Doo®).¹ PWC manufacturers employed more than 6,000 U.S. workers directly—and thousands more indirectly—in 11 states in 2004.

The Issue

PWC sales grew steadily through 1995, but have declined dramatically since then (see Chart 1). The primary reason for the decline in sales has been the bans on PWC use in most U.S. national parks.² Demands from environmentalists, interest groups and others for bans on the use of PWC came to a head in the mid-1990s and resulted in the 1998 publication of a proposed rule from the NPS to eliminate PWC use in most park areas.³ However, the negative impacts on PWC sales began even earlier, when publicity about the potential bans first surfaced about two years prior to publication of the proposed rule. The proposed rule was followed in April 2000 with a final rule in which the NPS banned PWC use throughout all its parks, recreation areas and seashores, but allowed some PWC use to continue for a two-year grace period beginning November 2000 in 21 park areas where other motorized boating was prevalent.⁴

The 21 identified parks were supposed to evaluate PWC impacts during the two-year grace period and, if appropriate, reauthorize continued PWC use after the grace period expired. A lawsuit and subsequent settlement led to a further requirement that each park conduct a full environmental and

¹ Two U.S. PWC manufacturers—Polaris and Arctic Cat—exited the PWC market. Arctic Cat announced its decision to cease PWC production in 1999, and Polaris in late 2004.

² We considered other possible factors that might be contributing to the decline in PWC sales since 1995, including the 2000-2001 recession, the 2002 shift in production from cheaper two-stroke models to higher-cost four-stroke models, the exit of two manufacturers from the market (see preceding footnote), and general declines in demand owed to any other factor. We believe the recession had no impact on PWC sales because the volume of PWC sales has been stable since 2001. Had the recession been a major contributing factor to sales declines since 2000, one would expect a recovery of PWC sales in 2002 and later years, which Chart 1 indicates did not take place.

We can neutralize any impact on trends in sales due to the shift to more expensive models, which began in 2002, by estimating the value of sales for 2002 onward based on the unit value of sales in 2001. In the event this shift accounts for some of the failure of PWC sales to increase after 2001, we have neutralized for it in our analysis.

Because it occurred at the very end of 2004, the exit of Polaris does not explain any of the decline in unit sales in Chart 1. The exit of Arctic Cat, which happened in late 1999, accounts for only a very small slice of the decline: Arctic Cat was the smallest “player” in the PWC market in 1999, representing only 5 percent of the market. As with the shift to higher-value PWC, we have neutralized our analysis for the impact of the exit of Arctic Cat by removing its sales completely from the data for 1995-1999.

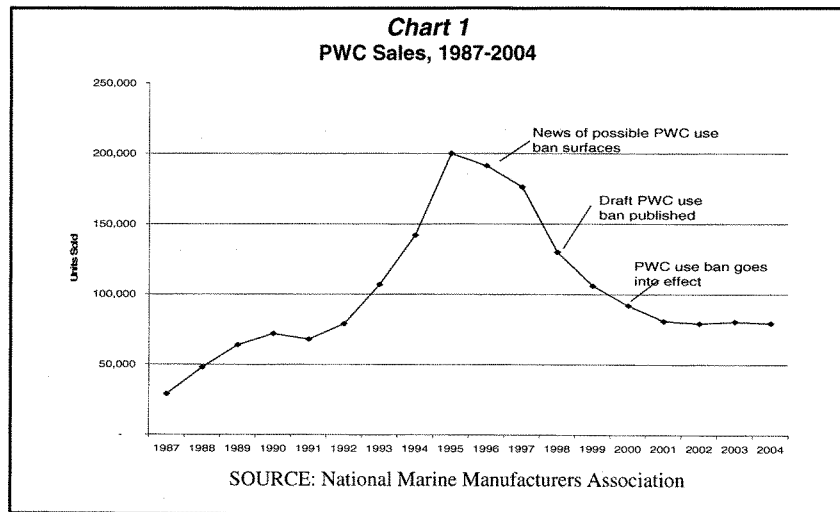
Finally, declines in demand generally do not explain any significant amount of the drop in unit sales in Chart 1. Between 1995 and 2004, unit sales of motorized boating equipment declined at an average annual rate of 1 percent per year. In stark contrast, unit sales of lower-cost PWC declined at annual rate more than eight times as great: 8.4 percent. The PWC bans are the most plausible explanation.

³ Department of the Interior, National Park Service, “Personal Watercraft Use within the NPS System,” Proposed Rule, *Federal Register*, Vol. 63, No. 178, September 15, 1998, pp. 49312-49317 [hereafter, “1998 Proposed Rule”].

⁴ Department of the Interior, National Park Service, “Personal Watercraft Use within the NPS System,” Final Rule, *Federal Register*, Vol. 65, No. 55, March 21, 2000, pp. 15077-15090 [hereafter, “Final Rule”]. The Final Rule went into effect on April 21, 2000, 30 days after publication in the *Federal Register*. It identified these units as units within which PWC use was presumptively appropriate and further indicated that any unit could reauthorize PWC use after conducting the requisite regulatory analyses and determining that such use would be appropriate. The confusion about which parks may reauthorize PWC use is yet another component of the uncertainty created by the Proposed and Final Rules.

economic assessment as well as a special rulemaking before reauthorizing PWC use. Five of the 21 parks immediately indicated that they had no intention to reauthorize PWC use; the NPS committed to completing the PWC rulemaking process for the remaining 16 within the two year grace period ending in 2002. Now four years later, only 10 of these promised rulemakings have been completed.

Table 1 shows the growing incidence of PWC bans across the country since 1994 for a selection of NPS park units. The table focuses on those park units that the NPS claims account for most PWC use in national parks. The NPS says that 87 park units permit motorized boating, and claims that PWC use has been observed in meaningful amounts in 32 of these 87 units.⁵ Table 1 is divided into three parts: the first lists parks that have permanently banned PWC use in or after 1994. The second part identifies park units that have banned PWC use pending the completion of the review process, and the third part identifies park units that have reopened to PWC use.



⁵ *Ibid.*

Table 1
 Changes in Status of PWC Use in 35 National Park Units Since 1994

PWC Use Permanently Banned (Year Banned)
Everglades National Park (FL) (1994)
Canaveral National Seashore (FL) (1998)
Canyonlands National Park (UT) (1998)
Golden Gate National Recreation Area (CA) (1998)
St. Croix National Scenic Riverway (VI) (1998)
Cape Cod National Seashore (MA) (1999) **
Cape Hatteras National Seashore (NC) (1999)
Apostle Islands National Lakeshore (WI) (2000)
Biscayne National Park (FL) (2000)
Glacier National Park (MT) (fully in 2000, parts earlier)
Grand Canyon National Park (AZ) (2000)
Isle Royale National Park (MI) (2000)
North Cascades National Park (WA) (2000)
Olympic National Park (WA) (fully in 2000, parts in 1998)
Sleeping Bear Dunes National Lakeshore (MI) (2000)
Indiana Dunes National Lakeshore (IN) (2002) **
Cumberland Island National Seashore (GA) (2002) **
Delaware Water Gap National Recreation Area (PA/NJ) (2002) **
Whiskeytown-Shasta-Trinity National Recreation Area (CA) (2002) **
PWC Use Restricted, then Banned, Pending Outcome of Review (Year Banned)
Big Thicket National Preserve (TX) (2002)*
Cape Lookout National Seashore (NC) (2002)*
Curecanti National Recreation Area (CO) (2002)*
Gateway National Recreation Area (NY/NJ) (2002)*
Gulf Islands National Seashore (FL/MS) (2002)*
Padre Island National Seashore (TX) (2002)*
PWC Use Approved with Restrictions (Year of Approval)
Assateague Island National Seashore (MD/VA) (2003)*
Glen Canyon National Recreation Area (AZ/UT) (2003)*
Lake Mead National Recreation Area (AZ/NV) (2003)*
Amistad National Recreation Area (TX) (2004)*
Chickasaw National Recreation Area (OK) (2004)*
Lake Meredith National Recreation Area (TX) (2004)*
Lake Roosevelt National Recreation Area (WA) (2004)*
Bighorn Canyon National Recreation Area (MO/WY) (2005)
Fire Island National Seashore (NY) (2005)*
Pictured Rocks National Lakeshore (MI) (2005)*

* Indicates those parks that were part of the original 21 sites identified as places where use of PWC could continue pending further evaluation; **five of those 21 parks decided unilaterally to impose a ban permanently.

Not one of the park units complied with the special rulemaking requirements necessary to reauthorize PWC use within the grace period. After the grace period expired in 2002, bans went into effect⁶ and slowly, over the years, some of the 16 parks began to issue the required analyses, followed by draft rules governing the resumption of limited or full PWC use, then final rules were issued. To date, however, only ten of the 16 have completed the process and reopened to PWC. The remaining six have stalled in the rulemaking process. And in addition to these national bans, local bans began to occur as local authorities followed the lead of the NPS.⁷ The uncertainty created by all these closures continues to create pervasive confusion and concern throughout the country as to whether PWC owners and enthusiasts will have places to operate PWC. The perceived risks associated with the bans, as well as misperceptions of the scope and applicability of the NPS closures has had a significant adverse effect on sales.

These bans are costly to companies and workers who manufacture and distribute PWC in the United States, and to their customers, many of them small businesses, who serve PWC users. These include PWC dealers, companies that rent PWC, those that service PWC, as well as businesses that cater to PWC users—hotels, restaurants, even the parks themselves. This report quantifies these negative impacts on the economy of the PWC bans generally, and of the delay in developing rules for the restoration of PWC use in parks that are still considering their options.

Estimating the Economic Costs of the Bans

When it published its proposed rule in 1998, the NPS stated that it “expects little, if any, economic impact on PWC users or the PWC industry on a regional or national basis.... Significant impacts on commercial PWC operations in and adjacent to NPS units are not expected from this rule and a substantial number of small entities will not be affected.”⁸ It based this assertion on several premises that did not turn out to be true: that a grace period during which PWC use could continue would mitigate negative impacts (the grace period expired before rules restoring PWC use could be implemented, and uncertainty about the future of PWC use in a park proved to be a destabilizing factor the NPS did not foresee⁹); and alternative sites exist for PWC use (this did not prove to be as significant a relief for PWC users as the NPS predicted).

Subsequent economic analyses commissioned by the NPS from an independent contractor contradict these expectations, finding significant potential negative economic impacts on regions located adjacent to parks contemplating bans, and even negative *actual* impacts on those regions

⁶ The only exception was the Lake Mead National Recreation Area, where park officials were about to complete the assessments just as the grace period expired. To keep PWC use from being disrupted, park officials sought and obtained short extensions of the grace period, during which time they completed their analysis and officially re-opened Lake Mead to PWC use. Lake Mead did not close while the special rulemaking process played out.

⁷ For example, after the NPS agreed in 1999 to ban the use of personal watercraft at Cape Cod National Seashore, the National Parks and Conservation Association launched a Cape-wide campaign to pass similar ordinances banning PWC in the towns surrounding the park. Local bans in the waters off four towns banned PWC in 2002. See “PWCs Banned from Towns at Cape Cod National Parks,” *National Parks*, April/May 2002.

⁸ NPS, “1998 Proposed Rule,” *op. cit.*

⁹ The considerable uncertainty created by the bans stems from, among other things: (1) media coverage that highlighted the imposition of the ban, but did not adequately identify the waters subject to closure; (2) the perception that the ban was a prelude to broader closures throughout the nation; and (3) the inability to differentiate federally managed waters that have been closed from state and privately controlled areas that remain open to PWC use. The sporadic reopening of a few park units to PWC use has not dispelled this uncertainty.

associated with the *potential* for bans.¹⁰ For example, the NPS studies found that the impacts of the PWC bans have been felt most acutely at the national parks affected and the surrounding areas of those parks. For 10 parks for which economic assessments have been completed, the NPS contractor found that the costs to *downstream* industries of the ban proposed for the park analyzed ranged to as much as \$44 million a year (see Table 2). The total annual cost for the 10 parks studied so far exceeds \$86 million a year. The studies found that the bans impacted local economies in three ways: first, families that might have wanted to buy a new PWC to use at a local park would no longer do so. In most instances, local retailers reported to the NPS that a ban would cause their sales of PWC to fall by as much as 100 percent.¹¹ In addition, the publicity about the bans caused a reduction in sales of PWC.¹² Second, NPS interviews found that in many instances rental income from PWC dropped by 100 percent as well.¹³ Third, spending associated with PWC use would decline, including spending on hotels, food at restaurants and grocery stores, fuel and other PWC maintenance expenses, park admission and camping fees, and related state and local sales taxes.

Table 2
Estimated Downstream Annual Economic Costs of
Proposed PWC Bans for Selected NPS Park Areas
2001 Dollars

Amistad National Recreation Area (TX)	\$442,080
Assateague Island National Seashore (MD/VA)	78,050
Bighorn Canyon National Recreation Area (MO/WY)	489,480
Chickasaw National Recreation Area (OK)	594,230
Fire Island National Seashore (NY)	3,683,590
Glen Canyon National Recreation Area (AZ/UT)	44,366,900
Gulf Islands National Seashore (FL/MS)	6,718,640
Lake Mead National Recreation Area (AZ/NV)	27,426,350
Lake Meredith National Recreation Area (TX)	2,412,860
Lake Roosevelt National Recreation Area (WA)	168,410
Total, 10 analyses issued so far	\$86,380,590

¹⁰ The contractor studies actually examined the economic effects of three alternative scenarios: changes in current economic variables resulting from the end of the ban on PWC, changes in current economic variables resulting from a partial lifting of the ban on PWC use, and effects of continuation of the ban on PWC use. The first scenario is equivalent to estimating the economic impact of the ban (i.e., it is the mirror estimate of the dollar value of the impact of lifting the ban completely).

To quantify the impacts, the NPS collected data from the parks for PWC visits, both before and after the bans (in many cases from actual counts by park officials). See, for example, MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, and RTI International, *Economic Analysis of Management Alternatives for Personal Watercraft in Bighorn National Recreation Area*, Revised Final Report, Prepared for the National Park Service, Environmental Quality Division, July 2003, Section 2.2.3, "Projected Visitation," p. 2-5 to 2-10. NPS interviewed PWC sales and rental shop owners as well as other businesses in the region that might have revenues related to PWC use in the park. The contractor then worked the declines in sales and rental income into an input-output model to estimate the impacts of the ban (technically, the impact of eliminating the ban) on downstream industries in the economies local to the parks.

¹¹ See, for example, MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, and RTI International, *Economic Analysis of Personal Watercraft Regulations in Lake Mead National Recreation Area*, Final Report. Prepared for the National Park Service, Environmental Quality Division, April 2003, Section 2.6, "Economic Activity in the Surrounding Communities," p. 2-37. Each of these economic analyses follows the same outline and covers the same material.

¹² *Ibid.*, Section 3.1, p. 3-4.

¹³ *Ibid.*, Section 3.1, p. 3-5 and 3-6.

Table 2 Source: MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, Inc. and RTI International Health, Social and Economics Research, Table 3-5, various reports. Study commissioned by NPS.

The impacts of the bans would be partly mitigated if PWC users could find alternative locations to enjoy PWC, and the NPS presumed that such alternatives would limit the costs to PWC retailers and others.¹⁴ However, the NPS overestimated the degree to which alternative sites for PWC use are available as well as the ability of users to identify areas open to PWC use. In many cases the parks are unique recreational destinations in the region and there are few alternative locations for PWC recreation. This is an important reason why subsequent NPS analyses found such significant costs associated with the bans. In addition, even when an alternative venue is currently available for PWC use, potential purchasers cannot be sure that their access to that venue will not be similarly restricted in the future, and thus sales of PWC generally have suffered, even in areas not adjacent to parks with restrictions.

As noted, the NPS-commissioned assessments only estimate the *downstream* impacts of the bans. These are the effects on PWC retailers who sell, service or rent PWC; motels, hotels, cabins and B&Bs; camping fees; restaurants and bars; grocery/take-out stores; gas stations; providers of local transportation; park admissions and fees; clothing, sporting goods, souvenir and other retailers. In addition, the bans have had a negative impact beyond economies nearest the parks, an impact not measured by the NPS studies. As a consequence of the decline in retail sales of PWC, *U.S. production* of PWC has dropped and with it, a reduction in orders from PWC manufacturers for raw materials, for example. Thus, as large as the estimates are, they still understate the true impact of the bans on the U.S. economy because they do not include these *upstream* impacts.

Estimating the Full Impacts of the PWC Bans on the U.S. Economy

Chart 1 shows that PWC sales have declined significantly in the face of actual or potential bans. The decline in sales volume grew annually from 1996-2001, stabilizing at about 80,000 units thereafter. Sales *volumes* in the 2002-2004 period are just 40 percent of the volume of sales in 1995, prior to adverse publicity about the potential for bans.¹⁵ That 40 percent share, which represents just under 80,000 units, likely represents the level of PWC sales that continue in the face of actual or pending bans because families have alternative venues to use their PWC.

Economists typically use “input-output (I/O) analysis” to estimate the up- and downstream impacts of, in this case, the decline in spending on PWC that has resulted since 1998. I/O tables show how industries interact. Specifically, they show how industries provide input to, and use output from, each other to produce Gross Domestic Product (GDP). I/O tables provide detailed information on the flows of the goods and services that comprise the production process of industries.

¹⁴ NPS, “1998 Proposed Rule,” *op. cit.*

¹⁵ We have neutralized the effects of other potential negative factors, such as the exit from the market of Arctic Cat in 1999 (see footnote 2 above) and the shift to higher-cost PWC in 2002, that might explain some of the decline. We neutralized the effect of the exit of Arctic Cat (by subtracting all of Arctic Cat’s PWC sales for every year from 1995-1999) from the inputs to the modeling that follows in this report. We neutralized the value data used in our modeling for this shift to higher-cost PWC in 2002.

To expand the NPS I/O analyses to capture the upstream as well as the downstream costs of the PWC bans to the U.S. economy as a whole, we used the most recent detailed national input-output table published by the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce.¹⁶ It reports a “snapshot” of all transactions within the economy at a given point in time (1997) for 495 sectors of the U.S. economy. The I/O table used for this analysis, the so-called “Total Requirements” table, shows the production that is required, directly and indirectly, from each industry and each commodity to deliver a dollar of a commodity to final users. In other words, it shows how much economic activity is generated in other industries to deliver a dollar of PWC production (or value added to imported PWC) to final consumers. To use it, we need to know the value of the sales lost to the PWC bans for each year since 1995 (for imported PWC, we need to know the value added to the wholesale value of imports). These values are deflated (using the producer price index specific to the industry classification category for PWC manufacturing), the industry multipliers are applied, and then the results are inflated back to dollars current for the year analyzed.

Just as the Commerce Department publishes I/O tables that enable us to calculate the up and downstream impacts of a change in sales across industries, so the Bureau of Labor Statistics (BLS) publishes a comparable tool for employment analysis. BLS bases these “employment requirements” tables on BEA’s I/O tables. The tables show industry employment supported directly and indirectly per million dollars of sales of, in this instance, PWC. They enable us to calculate the employment costs associated with the direct output losses. We used all of the employment requirements tables published by BLS—i.e., those for 1997 (reflecting productivity during 1997) to calculate employment impacts for 1996-2001; for 2001 (reflecting productivity relationships in 2001) to calculate employment impacts for 2001, and for 2002 (reflecting productivity relationships in 2002) to calculate employment impacts for 2002-2004.

Table 3 reports the up and downstream costs associated with these declines in PWC sales since 1995. **The total cost to the U.S. economy to date of the bans (proposed and actual) is \$2.7 billion** (see column two of Table 3).¹⁷ It arises from the loss of sales of U.S.-produced PWC, and the loss of value added stemming from the sales of imported PWC, which totaled \$1.3 billion over the last nine years (column 1). For every year the bans persist, or uncertainty about new or permanent bans persists, the total up- and downstream cost to the economy averages about \$567 million a year (based on the 2001-2004 period, the period during which unit sales of PWC have stabilized).

¹⁶ BEA publishes these tables every five years, and 1997 is the most recent set of tables available for detailed analysis of the U.S. economy. The 2002 study has not yet been released to the public.

¹⁷ The results measure the up- and downstream impacts from the 1995 benchmark of the decline in sales of U.S.-produced PWC (wholesale value) and the gross margin associated with the loss of sales (wholesale value) of imported PWC and U.S.-produced PWC. Transportation margins were not included and therefore the results underestimate the value of the costs of the PWC sales declines.

Table 3
Estimated Total Economic Impact on the U.S. Economy:
Losses of Economic Activity and Jobs Associated with PWC Bans

	Direct Impact on PWC Industry* (millions)	Total Impact on Entire Economy** (millions)	Loss of Jobs (number)
1996	\$61.5	\$145.1	694
1997	133.7	314.6	1,518
1998	-146.4	-308.5	-2,307
1999	-93.5	-172.3	-1,921
2000	-195.7	-410.2	-3,124
2001	-294.3	-631.4	-3,720
2002	-313.9	-675.2	-3,636
2003	-217.6	-450.9	-2,778
2004	-243.7	-510.9	-3,022
Total	-\$1,309.8	-\$2,699.6	n.a.***

* Represents *net* declines from 1995 baseline in *value* of domestic production and in value of retail margins associated with sales of domestically-produced and imported PWC. The negative impact on the value of PWC sold in 1996 and 1997 was felt solely by imported PWC; U.S. producers of PWC did not see a negative impact on the *value* of sales until 1998. Moreover, the negative impact on imports was outweighed by increases in the value of sales of U.S.-produced PWC in 1996 and 1998, so the net total reported in this table is positive rather than negative.

** Associated up- and downstream impacts of declines reported in first column of this table, using BEA multipliers.

*** *The employment estimates are cumulative, and therefore the column should not be summed. In other words, each year reflects the loss in employment reflecting the loss in sales of PWC between the given year and 1995.*

Table 3 also shows that the declines in PWC sales that have escalated since 1995 have had a growing negative impact on employment throughout the U.S. economy.¹⁸ These include not only PWC-manufacturing related jobs, but jobs throughout the U.S. economy that are associated with producing, selling and using PWC.¹⁹ **Jobs lost have exceeded 3,500 in some years, and currently average about 3,300 for every year the bans continue.**

¹⁸ Some mitigation of employment loss during years in which the losses resulting from declines in PWC sales increased are explained by improvements in productivity reflected in new versions of the employment requirements tables.

¹⁹ These results are consistent with the findings of the MACTEC studies done for the NPS. The 10 studies completed to date by that contractor estimated that the negative impact of the ban on employment in downstream sectors alone totals 1,700. For example, the downstream impacts alone calculated using the employment requirements table for 2002 result in estimates of job losses of about 2,300 nationwide. An analysis that includes up- as well as downstream impacts, and covers all of the national parks, would certainly reach the levels calculated in Table 3 of this report.

Our results are conservative. First, we measure the loss in sales from 1995 assuming that PWC sales would not have grown by so much as one unit from the 1995 level. The average annual rate of growth of non-PWC motor boat sales was stable from 1995 to 2000, declined from 2001-2003, and was strongly positive again in 2004 (based on units sold). The economy expanded briskly from 1995-2000, and one would assume that PWC sales would have tracked those of motor boats generally, or even exceeded it as PWC are less expensive than boats. Second, we removed from the base data any factor that might independently have contributed to a change in the value of sales, including the exit of one producer from the market in 1999 (we removed its sales completely from the data for the 1995-1999 period), and the shift beginning in 2002 to larger, more technologically advanced and expensive PWC (we used unit values for 2001 to calculate sales values for 2002-2004). Retail prices of PWC in 2001 averaged \$7,929 compared to \$9,226 in 2004.²⁰ Measuring the impacts of the bans on total PWC sales values (increasing during the 2002-2004 period) would lead to the incorrect conclusion that the bans were no longer negatively impacting PWC sales in those years, which in terms of units were flat (see Chart 1).

Conclusion

This analysis demonstrates that the negative publicity associated with the PWC bans and the bans themselves have had a significant negative impact on the U.S. economy and on U.S. jobs. Economic losses total \$2.7 billion, and more than 3,000 jobs have been lost.

Our analysis also shows that these negative economic impacts will continue as long as the bans, and the uncertainty surrounding them, persist. Every year the issue festers, the U.S. economy loses about \$567 million in income and 3,300 job opportunities. Those costs are borne not only by PWC manufacturers/distributors, most of whom are located around the country, but also by distributors, retailers, restaurants, hoteliers and others. Many of these related businesses are small businesses whose bottom line depends on selling or renting PWC to families who want to use them in the targeted national parks.

²⁰ National Marine Manufacturers Association, *2004 Recreational Boating Statistical Abstract*, Table 3.1.

TRADE PARTNERSHIP WORLDWIDE, LLC
THE TRADE PARTNERSHIP

Analysis of the Economic Impact of the Ban on Use of Personal Watercraft by the National Park Service

February 2006

Executive Summary

Use of personal watercraft (PWC) in the United States has been adversely affected by consideration and implementation of bans on their use in U.S. national parks. The negative impacts of the bans (and of publicity associated with the bans) has resulted in lost sales since 1995, which in turn has adversely impacted U.S. producers and distributors of PWC, their suppliers, retailers and other businesses that service PWC and their users.

This report examines the national impacts of the PWC bans on output and on employment. It examines the impacts on both up- and downstream industries throughout the U.S. economy. These impacts are negative and significant.

- **The direct cost to the PWC industry** of continued uncertainty associated with the bans, and the existing bans themselves, is estimated to total about **\$1.3 billion** over the last nine years.
- This cost affects hundreds of other sectors of the U.S. economy, bringing **the total "hit" to the American economy** of the PWC bans and the negative publicity around them to **\$2.7 billion** over the last nine years.
- The estimated total costs to the U.S. economy of the bans and the negative publicity around them will continue, at a pace of more than \$567 million a year, as long as the bans continue. (This estimation is based on the total costs per year calculated from 2001-2004.)
- **The employment cost** of the bans and the negative publicity around them has been growing and today averages about **3,300 direct and indirect jobs** lost across the United States. This job cost will also continue as long as the bans persist. (The estimation of this average is based on the job losses incurred after bans went into effect; from 2001-2004.)

Introduction

This report assesses the economic impacts of bans on the use of personal watercraft (PWC) by the National Park Service (NPS) throughout the park system. PWC are water vehicles more commonly known by manufacturers' brand names, including JET SKI®, WaveRunner®, AquaTrax® and Sea-Doo®. The stereotypical image of PWC—stand-up vessels powered by conventional carbureted two-stroke engines—is outdated. Today, the majority of the vessels that PWC companies manufacture and distribute are larger sit-down models that are less than 16 feet in length, seat up to three people, and have cleaner-running four-stroke and direct-injection two-stroke inboard motors. These PWC are very similar to small motorboats—indeed, they can pull a water skier. Multi-person PWC models today account for 99 percent of the market.

Four companies currently sell PWC in the U.S. market—Honda (AquaTrax®), Kawasaki (JET SKI®), Yamaha (WaveRunner®) and BRP (Sea-Doo®)¹. PWC manufacturers employed more than 6,000 U.S. workers directly—and thousands more indirectly—in 11 states in 2004.

¹ Two U.S. PWC manufacturers—Polaris and Arctic Cat—exited the PWC market. Arctic Cat announced its decision to cease PWC production in 1999, and Polaris in late 2004.

The Issue

PWC sales grew steadily through 1995, but have declined dramatically since then (see Chart 1). The primary reason for the decline in sales has been the bans on PWC use in most U.S. national parks.² Demands from environmentalists, interest groups and others for bans on the use of PWC came to a head in the mid-1990s and resulted in the 1998 publication of a proposed rule from the NPS to eliminate PWC use in most park areas.³ However, the negative impacts on PWC sales began even earlier, when publicity about the potential bans first surfaced about two years prior to publication of the proposed rule. The proposed rule was followed in April 2000 with a final rule in which the NPS banned PWC use throughout all its parks, recreation areas and seashores, but allowed some PWC use to continue for a two-year grace period beginning November 2000 in 21 park areas where other motorized boating was prevalent.⁴

The 21 identified parks were supposed to evaluate PWC impacts during the two-year grace period and, if appropriate, reauthorize continued PWC use after the grace

² We considered other possible factors that might be contributing to the decline in PWC sales since 1995, including the 2000-2001 recession, the 2002 shift in production from cheaper two-stroke models to higher-cost four-stroke models, the exit of two manufacturers from the market (see preceding footnote), and general declines in demand owed to any other factor. We believe the recession had no impact on PWC sales because the volume of PWC sales has been stable since 2001. Had the recession been a major contributing factor to sales declines since 2000, one would expect a recovery of PWC sales in 2002 and later years, which Chart 1 indicates did not take place.

We can neutralize any impact on trends in sales due to the shift to more expensive models, which began in 2002, by estimating the value of sales for 2002 onward based on the unit value of sales in 2001. In the event this shift accounts for some of the failure of PWC sales to increase after 2001, we have neutralized for it in our analysis.

Because it occurred at the very end of 2004, the exit of Polaris does not explain any of the decline in unit sales in Chart 1. The exit of Arctic Cat, which happened in late 1999, accounts for only a very small slice of the decline: Arctic Cat was the smallest "player" in the PWC market in 1999, representing only 5 percent of the market. As with the shift to higher-value PWC, we have neutralized our analysis for the impact of the exit of Arctic Cat by removing its sales completely from the data for 1995-1999.

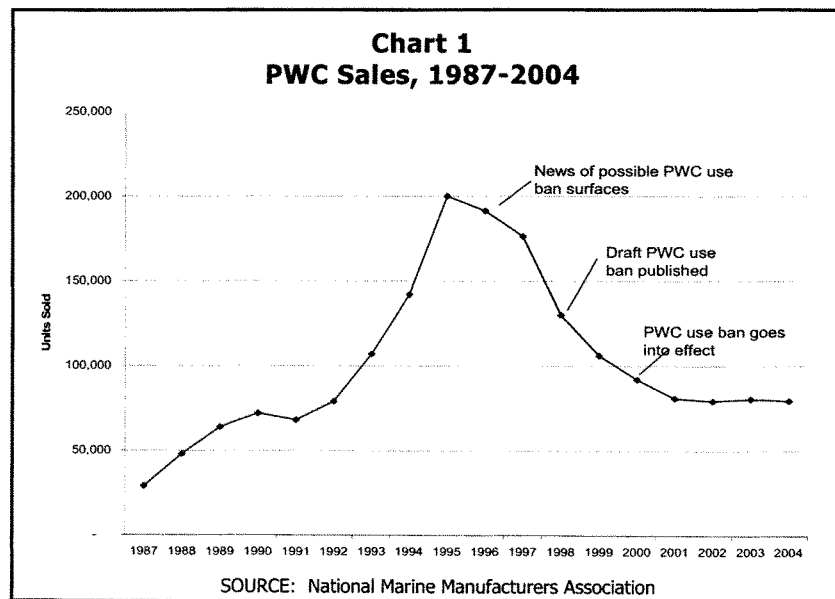
Finally, declines in demand generally do not explain any significant amount of the drop in unit sales in Chart 1. Between 1995 and 2004, unit sales of motorized boating equipment declined at an average annual rate of 1 percent per year. In stark contrast, unit sales of lower-cost PWC declined at annual rate more than eight times as great: 8.4 percent. The PWC bans are the most plausible explanation.

³ Department of the Interior, National Park Service, "Personal Watercraft Use within the NPS System," Proposed Rule, *Federal Register*, Vol. 63, No. 178, September 15, 1998, pp. 49312-49317 [hereafter, "1998 Proposed Rule"].

⁴ Department of the Interior, National Park Service, "Personal Watercraft Use within the NPS System," Final Rule, *Federal Register*, Vol. 65, No. 55, March 21, 2000, pp. 15077-15090 [hereafter, "Final Rule"]. The Final Rule went into effect on April 21, 2000, 30 days after publication in the *Federal Register*. It identified these units as units within which PWC use was presumptively appropriate and further indicated that any unit could reauthorize PWC use after conducting the requisite regulatory analyses and determining that such use would be appropriate. The confusion about which parks may reauthorize PWC use is yet another component of the uncertainty created by the Proposed and Final Rules.

period expired. A lawsuit and subsequent settlement led to a further requirement that each park conduct a full environmental and economic assessment as well as a special rulemaking before reauthorizing PWC use. Five of the 21 parks immediately indicated that they had no intention to reauthorize PWC use; the NPS committed to completing the PWC rulemaking process for the remaining 16 within the two year grace period ending in 2002. Now four years later, only 10 of these promised rulemakings have been completed.

Table 1 shows the growing incidence of PWC bans across the country since 1994 for a selection of NPS park units. The table focuses on those park units that the NPS claims account for most PWC use in national parks. The NPS says that 87 park units permit motorized boating, and claims that PWC use has been observed in meaningful amounts in 32 of these 87 units.⁵ Table 1 is divided into three parts: the first lists parks that have permanently banned PWC use in or after 1994. The second part identifies park units that have banned PWC use pending the completion of the review process, and the third part identifies park units that have reopened to PWC use.



⁵ *Ibid.*

Table 1
Changes in Status of PWC Use in
35 National Park Units Since 1994

PWC Use Permanently Banned (Year Banned)
Everglades National Park (FL) (1994)
Canaveral National Seashore (FL) (1998)
Canyonlands National Park (UT) (1998)
Golden Gate National Recreation Area (CA) (1998)
St. Croix National Scenic Riverway (VI) (1998)
Cape Cod National Seashore (MA) (1999) **
Cape Hatteras National Seashore (NC) (1999)
Apostle Islands National Lakeshore (WI) (2000)
Biscayne National Park (FL) (2000)
Glacier National Park (MT) (fully in 2000, parts earlier)
Grand Canyon National Park (AZ) (2000)
Isle Royale National Park (MI) (2000)
North Cascades National Park (WA) (2000)
Olympic National Park (WA) (fully in 2000, parts in 1998)
Sleeping Bear Dunes National Lakeshore (MI) (2000)
Indiana Dunes National Lakeshore (IN) (2002) **
Cumberland Island National Seashore (GA) (2002) **
Delaware Water Gap National Recreation Area (PA/NJ) (2002) **
Whiskeytown-Shasta-Trinity National Recreation Area (CA) (2002) **
PWC Use Restricted, then Banned, Pending Outcome of Review (Year Banned)
Big Thicket National Preserve (TX) (2002)*
Cape Lookout National Seashore (NC) (2002)*
Curecanti National Recreation Area (CO) (2002)*
Gateway National Recreation Area (NY/NJ) (2002)*
Gulf Islands National Seashore (FL/MS) (2002)*
Padre Island National Seashore (TX) (2002)*
PWC Use Approved with Restrictions (Year of Approval)
Assateague Island National Seashore (MD/VA) (2003)*
Glen Canyon National Recreation Area (AZ/UT) (2003)*
Lake Mead National Recreation Area (AZ/NV) (2003)*
Amistad National Recreation Area (TX) (2004)*
Chickasaw National Recreation Area (OK) (2004)*
Lake Meredith National Recreation Area (TX) (2004)*
Lake Roosevelt National Recreation Area (WA) (2004)*
Bighorn Canyon National Recreation Area (MO/WY) (2005)
Fire Island National Seashore (NY) (2005)*
Pictured Rocks National Lakeshore (MI) (2005)*

* Indicates those parks that were part of the original 21 sites identified as places where use of PWC could continue pending further evaluation; **five of those 21 parks decided unilaterally to impose a ban permanently.

Not one of the park units complied with the special rulemaking requirements necessary to reauthorize PWC use within the grace period. After the grace period expired in 2002, bans went into effect⁶ and slowly, over the years, some of the 16 parks began to issue the required analyses, followed by draft rules governing the resumption of limited or full PWC use, then final rules were issued. To date, however, only ten of the 16 have completed the process and reopened to PWC. The remaining six have stalled in the rulemaking process. And in addition to these national bans, local bans began to occur as local authorities followed the lead of the NPS.⁷ The uncertainty created by all these closures continues to create pervasive confusion and concern throughout the country as to whether PWC owners and enthusiasts will have places to operate PWC. The perceived risks associated with the bans, as well as misperceptions of the scope and applicability of the NPS closures has had a significant adverse effect on sales.

These bans are costly to companies and workers who manufacture and distribute PWC in the United States, and to their customers, many of them small businesses, who serve PWC users. These include PWC dealers, companies that rent PWC, those that service PWC, as well as businesses that cater to PWC users—hotels, restaurants, even the parks themselves. This report quantifies these negative impacts on the economy of the PWC bans generally, and of the delay in developing rules for the restoration of PWC use in parks that are still considering their options.

Estimating the Economic Costs of the Bans

When it published its proposed rule in 1998, the NPS stated that it “expects little, if any, economic impact on PWC users or the PWC industry on a regional or national basis.... Significant impacts on commercial PWC operations in and adjacent to NPS units are not expected from this rule and a substantial number of small entities will not be affected.”⁸ It based this assertion on several premises that did not turn out to be true: that a grace period during which PWC use could continue would mitigate negative impacts (the grace period expired before rules restoring PWC use could be implemented, and uncertainty about the future of PWC use in a park proved to be a

⁶ The only exception was the Lake Mead National Recreation Area, where park officials were about to complete the assessments just as the grace period expired. To keep PWC use from being disrupted, park officials sought and obtained short extensions of the grace period, during which time they completed their analysis and officially re-opened Lake Mead to PWC use. Lake Mead did not close while the special rulemaking process played out.

⁷ For example, after the NPS agreed in 1999 to ban the use of personal watercraft at Cape Cod National Seashore, the National Parks and Conservation Association launched a Cape-wide campaign to pass similar ordinances banning PWC in the towns surrounding the park. Local bans in the waters off four towns banned PWC in 2002. See “PWCs Banned from Towns at Cape Cod National Parks,” *National Parks*, April/May 2002.

⁸ NPS, “1998 Proposed Rule,” *op. cit.*

destabilizing factor the NPS did not foresee⁹); and alternative sites exist for PWC use (this did not prove to be as significant a relief for PWC users as the NPS predicted).

Subsequent economic analyses commissioned by the NPS from an independent contractor contradict these expectations, finding significant potential negative economic impacts on regions located adjacent to parks contemplating bans, and even negative *actual* impacts on those regions associated with the *potential* for bans.¹⁰ For example, the NPS studies found that the impacts of the PWC bans have been felt most acutely at the national parks affected and the surrounding areas of those parks. For 10 parks for which economic assessments have been completed, the NPS contractor found that the costs to *downstream* industries of the ban proposed for the park analyzed ranged to as much as \$44 million a year (see Table 2). The total annual cost for the 10 parks studied so far exceeds \$86 million a year. The studies found that the bans impacted local economies in three ways: first, families that might have wanted to buy a new PWC to use at a local park would no longer do so. In most instances, local retailers reported to the NPS that a ban would cause their sales of PWC to fall by as much as 100 percent.¹¹ In addition, the publicity about the bans caused a reduction in sales of PWC.¹² Second, NPS interviews found that in many instances rental income from PWC dropped by 100

⁹ The considerable uncertainty created by the bans stems from, among other things: (1) media coverage that highlighted the imposition of the ban, but did not adequately identify the waters subject to closure; (2) the perception that the ban was a prelude to broader closures throughout the nation; and (3) the inability to differentiate federally managed waters that have been closed from state and privately controlled areas that remain open to PWC use. The sporadic reopening of a few park units to PWC use has not dispelled this uncertainty.

¹⁰ The contractor studies actually examined the economic effects of three alternative scenarios: changes in current economic variables resulting from the end of the ban on PWC, changes in current economic variables resulting from a partial lifting of the ban on PWC use, and effects of continuation of the ban on PWC use. The first scenario is equivalent to estimating the economic impact of the ban (i.e., it is the mirror estimate of the dollar value of the impact of lifting the ban completely).

To quantify the impacts, the NPS collected data from the parks for PWC visits, both before and after the bans (in many cases from actual counts by park officials). See, for example, MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, and RTI International, *Economic Analysis of Management Alternatives for Personal Watercraft in Bighorn National Recreation Area*, Revised Final Report, Prepared for the National Park Service, Environmental Quality Division, July 2003, Section 2.2.3, "Projected Visitation," p. 2-5 to 2-10. NPS interviewed PWC sales and rental shop owners as well as other businesses in the region that might have revenues related to PWC use in the park. The contractor then worked the declines in sales and rental income into an input-output model to estimate the impacts of the ban (technically, the impact of eliminating the ban) on downstream industries in the economies local to the parks.

¹¹ See, for example, MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, and RTI International, *Economic Analysis of Personal Watercraft Regulations in Lake Mead National Recreation Area*, Final Report, Prepared for the National Park Service, Environmental Quality Division, April 2003, Section 2.6, "Economic Activity in the Surrounding Communities," p. 2-37. Each of these economic analyses follows the same outline and covers the same material.

¹² *Ibid.*, Section 3.1, p. 3-4.

percent as well.¹³ Third, spending associated with PWC use would decline, including spending on hotels, food at restaurants and grocery stores, fuel and other PWC maintenance expenses, park admission and camping fees, and related state and local sales taxes.

Table 2
Estimated Downstream Annual Economic Costs of
Proposed PWC Bans for Selected NPS Park Areas
2001 Dollars

Amistad National Recreation Area (TX)	\$442,080
Assateague Island National Seashore (MD/VA)	78,050
Bighorn Canyon National Recreation Area (MO/WY)	489,480
Chickasaw National Recreation Area (OK)	594,230
Fire Island National Seashore (NY)	3,683,590
Glen Canyon National Recreation Area (AZ/UT)	44,366,900
Gulf Islands National Seashore (FL/MS)	6,718,640
Lake Mead National Recreation Area (AZ/NV)	27,426,350
Lake Meredith National Recreation Area (TX)	2,412,860
Lake Roosevelt National Recreation Area (WA)	168,410
Total, 10 analyses issued so far	\$86,380,590

Source: MACTEC Engineering and Consulting of Georgia, Inc., BBL Sciences, Inc. and RTI International Health, Social and Economics Research, Table 3-5, various reports. Study commissioned by NPS.

The impacts of the bans would be partly mitigated if PWC users could find alternative locations to enjoy PWC, and the NPS presumed that such alternatives would limit the costs to PWC retailers and others.¹⁴ However, the NPS overestimated the degree to which alternative sites for PWC use are available as well as the ability of users to identify areas open to PWC use. In many cases the parks are unique recreational destinations in the region and there are few alternative locations for PWC recreation. This is an important reason why subsequent NPS analyses found such significant costs associated with the bans. In addition, even when an alternative venue is currently available for PWC use, potential purchasers cannot be sure that their access to that venue will not be similarly restricted in the future, and thus sales of PWC generally have suffered, even in areas not adjacent to parks with restrictions.

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Chart 1 shows that PWC sales have declined significantly in the face of actual or potential bans. The decline in sales volume grew annually from 1996-2001, stabilizing at about 80,000 units thereafter. Sales *volumes* in the 2002-2004 period are just 40 percent of the volume of sales in 1995, prior to adverse publicity about the potential for bans.¹⁵ That 40 percent share, which represents just under 80,000 units, likely represents the level of PWC sales that continue in the face of actual or pending bans because families have alternative venues to use their PWC.

Economists typically use "input-output (I/O) analysis" to estimate the up- and downstream impacts of, in this case, the decline in spending on PWC that has resulted since 1998. I/O tables show how industries interact. Specifically, they show how industries provide input to, and use output from, each other to produce Gross Domestic Product (GDP). I/O tables provide detailed information on the flows of the goods and services that comprise the production process of industries.

To expand the NPS I/O analyses to capture the upstream as well as the downstream costs of the PWC bans to the U.S. economy as a whole, we used the most recent detailed national input-output table published by the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce.¹⁶ It reports a "snapshot" of all transactions within the economy at a given point in time (1997) for 495 sectors of the U.S. economy. The I/O table used for this analysis, the so-called "Total

¹⁵ We have neutralized the effects of other potential negative factors, such as the exit from the market of Arctic Cat in 1999 (see footnote 2 above) and the shift to higher-cost PWC in 2002, that might explain some of the decline. We neutralized the effect of the exit of Arctic Cat (by subtracting all of Arctic Cat's PWC sales for every year from 1995-1999) from the inputs to the modeling that follows in this report. We neutralized the value data used in our modeling for this shift to higher-cost PWC in 2002.

¹⁶ BEA publishes these tables every five years, and 1997 is the most recent set of tables available for detailed analysis of the U.S. economy. The 2002 study has not yet been released to the public.

Requirements" table, shows the production that is required, directly and indirectly, from each industry and each commodity to deliver a dollar of a commodity to final users. In other words, it shows how much economic activity is generated in other industries to deliver a dollar of PWC production (or value added to imported PWC) to final consumers. To use it, we need to know the value of the sales lost to the PWC bans for each year since 1995 (for imported PWC, we need to know the value added to the wholesale value of imports). These values are deflated (using the producer price index specific to the industry classification category for PWC manufacturing), the industry multipliers are applied, and then the results are inflated back to dollars current for the year analyzed.

Just as the Commerce Department publishes I/O tables that enable us to calculate the up and downstream impacts of a change in sales across industries, so the Bureau of Labor Statistics (BLS) publishes a comparable tool for employment analysis. BLS bases these "employment requirements" tables on BEA's I/O tables. The tables show industry employment supported directly and indirectly per million dollars of sales of, in this instance, PWC. They enable us to calculate the employment costs associated with the direct output losses. We used all of the employment requirements tables published by BLS—i.e., those for 1997 (reflecting productivity during 1997) to calculate employment impacts for 1996-2001; for 2001 (reflecting productivity relationships in 2001) to calculate employment impacts for 2001, and for 2002 (reflecting productivity relationships in 2002) to calculate employment impacts for 2002-2004.

Table 3 reports the up and downstream costs associated with these declines in PWC sales since 1995. **The total cost to the U.S. economy to date of the bans (proposed and actual) is \$2.7 billion** (see column two of Table 3).¹⁷ It arises from the loss of sales of U.S.-produced PWC, and the loss of value added stemming from the sales of imported PWC, which totaled \$1.3 billion over the last nine years (column 1). For every year the bans persist, or uncertainty about new or permanent bans persists, the total up- and downstream cost to the economy averages about \$567 million a year (based on the 2001-2004 period, the period during which unit sales of PWC have stabilized).

¹⁷ The results measure the up- and downstream impacts from the 1995 benchmark of the decline in sales of U.S.-produced PWC (wholesale value) and the gross margin associated with the loss of sales (wholesale value) of imported PWC and U.S.-produced PWC. Transportation margins were not included and therefore the results underestimate the value of the costs of the PWC sales declines.

Table 3
Estimated Total Economic Impact on the U.S. Economy:
Losses of Economic Activity and Jobs Associated with PWC Bans

	Direct Impact on PWC Industry*	Total Impact on Entire Economy**	Loss of Jobs
	(millions)	(millions)	(number)
1996	\$61.5	\$145.1	694
1997	133.7	314.6	1,518
1998	-146.4	-308.5	-2,307
1999	-93.5	-172.3	-1,921
2000	-195.7	-410.2	-3,124
2001	-294.3	-631.4	-3,720
2002	-313.9	-675.2	-3,636
2003	-217.6	-450.9	-2,778
2004	-243.7	-510.9	-3,022
Total	-\$1,309.8	-\$2,699.6	n.a.***

* Represents *net* declines from 1995 baseline in *value* of domestic production and in value of retail margins associated with sales of domestically-produced and imported PWC. The negative impact on the value of PWC sold in 1996 and 1997 was felt solely by imported PWC; U.S. producers of PWC did not see a negative impact on the *value* of sales until 1998. Moreover, the negative impact on imports was outweighed by increases in the value of sales of U.S.-produced PWC in 1996 and 1998, so the net total reported in this table is positive rather than negative.

** Associated up- and downstream impacts of declines reported in first column of this table, using BEA multipliers.

*** The employment estimates are cumulative, and therefore the column should not be summed. In other words, each year reflects the loss in employment reflecting the loss in sales of PWC between the given year and 1995.

Table 3 also shows that the declines in PWC sales that have escalated since 1995 have had a growing negative impact on employment throughout the U.S. economy.¹⁸ These include not only PWC-manufacturing related jobs, but jobs throughout the U.S. economy that are associated with producing, selling and using PWC.¹⁹ **Jobs lost have exceeded 3,500 in some years, and currently average about 3,300 for every year the bans continue.**

¹⁸ Some mitigation of employment loss during years in which the losses resulting from declines in PWC sales increased are explained by improvements in productivity reflected in new versions of the employments requirements tables.

¹⁹ These results are consistent with the findings of the MACTEC studies done for the NPS. The 10 studies completed to date by that contractor estimated that the negative impact of the ban on employment in downstream sectors alone totals 1,700. For example, the downstream impacts alone calculated using the employment requirements table for 2002 result in estimates of job losses of about 2,300 nationwide. An analysis (footnote continued)

Our results are conservative. First, we measure the loss in sales from 1995 assuming that PWC sales would not have grown by so much as one unit from the 1995 level. The average annual rate of growth of non-PWC motor boat sales was stable from 1995 to 2000, declined from 2001-2003, and was strongly positive again in 2004 (based on units sold). The economy expanded briskly from 1995-2000, and one would assume that PWC sales would have tracked those of motor boats generally, or even exceeded it as PWC are less expensive than boats. Second, we removed from the base data any factor that might independently have contributed to a change in the value of sales, including the exit of one producer from the market in 1999 (we removed its sales completely from the data for the 1995-1999 period), and the shift beginning in 2002 to larger, more technologically advanced and expensive PWC (we used unit values for 2001 to calculate sales values for 2002-2004). Retail prices of PWC in 2001 averaged \$7,929 compared to \$9,226 in 2004.²⁰ Measuring the impacts of the bans on total PWC sales values (increasing during the 2002-2004 period) would lead to the incorrect conclusion that the bans were no longer negatively impacting PWC sales in those years, which in terms of units were flat (see Chart 1).

Conclusion

This analysis demonstrates that the negative publicity associated with the PWC bans and the bans themselves have had a significant negative impact on the U.S. economy and on U.S. jobs. Economic losses total \$2.7 billion, and more than 3,000 jobs have been lost.

Our analysis also shows that these negative economic impacts will continue as long as the bans, and the uncertainty surrounding them, persist. Every year the issue festers, the U.S. economy loses about \$567 million in income and 3,300 job opportunities. Those costs are borne not only by PWC manufacturers/distributors, most of whom are located around the country, but also by distributors, retailers, restaurants, hoteliers and others. Many of these related businesses are small businesses whose bottom line depends on selling or renting PWC to families who want to use them in the targeted national parks.

that includes up- as well as downstream impacts, and covers all of the national parks, would certainly reach the levels calculated in Table 3 of this report.

²⁰ National Marine Manufacturers Association, *2004 Recreational Boating Statistical Abstract*, Table 3.1.

Mrs. MILLER. Next we're going to hear from John Hamer. Mr. Hamer is currently a managing partner of Motorsports Investment Group, which owns five dealerships in Florida. He and his partners owned the predecessor Motorsports of Miami from 1973 to 1999, at which time they sold that company. And he continued to work as the company's vice president and chief operating officer until he and his partner repurchased Motorsports of Miami and four other dealerships in 2003. He's worked in the motorsports industry for over 32 years, so should have some very interesting testimony about this particular subject.

And we welcome you Mr. Hamer, and the floor is yours, sir.

**STATEMENT OF JOHN HAMER, OWNER, MOTORSPORTS OF
MIAMI**

Mr. HAMER. Good morning. Thank you for inviting me to testify before this subcommittee. My name is John Hamer, and I own and operate Motorsports of Miami along with my partner, a dealership that sells and services personal watercraft, sportboats, motorcycles and off-road vehicles. My dealership is located in the area of Miami known as Cutler Ridge, which is between the heart of the city of Miami and Homestead. It is also the closest personal watercraft dealership to Biscayne National Park.

I have seen firsthand all the ebbs and flows of the personal watercraft popularity due to the ban of PWCs at Biscayne National Park which went into effect in 2000. I can personally attest to the fact that my business suffered greatly due to the ban.

I have been in the motorsports industry since 1973, and in 1981 my partners and I relocated our dealership to South Dade and got into the personal watercraft business, and they increasingly became an important part of that business. Of all the products we sold, personal watercraft sales skyrocketed in the early 1990's. At one point we were selling 800 personal watercraft per year. Our sales were so high that we hired personnel dedicated solely to PWC sales and service, in addition to opening a new showroom for that purpose.

The market for personal watercraft was growing as well. All types of consumers became interested, especially families for whom personal watercraft is the only boat they can afford, yet it is banned in places where more expensive boats can operate. In the late 1990's, when news began to spread about the possibility of banning personal watercraft use at Biscayne National Park, our customer base declined markedly. You might think that being in Miami there are plenty of other places to boat; if not Biscayne, then someplace else. This isn't the case. My customers have no other choice but to trailer boats from south Miami to Key Largo or somewhere else. In many cases that can take over an hour.

Even before the personal watercraft ban went into effect in 2000, the rumors around the potential ban precipitated a decline in PWC sales at my shop. Sales slipped from an average of 800 vessels per year to 200 per year in the late 1990's, and by 2002 sales leveled off at 25 percent of the previous sales. To be more specific, we sold just 201 personal watercrafts in 2005.

Since my shop is located directly next to the park where personal watercraft are banned, we felt a more dramatic hit than other deal-

ers. As Ms. Baughman pointed out, the average decline in sales due to the ban was 60 percent, while my shop suffered a 75 percent decline. This sharp decline in sales forced Motorsports of Miami to downsize. The showroom was closed, repairmen were laid off, and our business shrunk. I watched the business nearly shatter.

To really appreciate the absurdity of the Biscayne ban, you must see it for yourself. There are no physical boundaries that wall off the waters of Biscayne National Park from those of the Atlantic Ocean. So imagine you are a personal watercraft rider; you have to ride 8 miles or more out into the water where the waves become larger, and the ride becomes more dangerous. Furthermore, there is no sign that tells you when you have passed the boundaries of the park. You don't know when it's allowable for you to return closer to shore. In the meantime, all other types of boats, fishing, pleasure, are cruising the waters of Biscayne National Park.

As I look back, the most frustrating part of this whole situation is the authorities at Biscayne National Park have never even conducted an environmental assessment to investigate whether this ban is warranted or not. A letter came down from the National Park Service headquarters here in Washington, DC, alleging personal watercraft were bad for the environment, and, therefore, the park could ban them. As you know now, these allegations have been proven untrue in 15 consecutive instances where they conducted an environmental assessment since the year 2002.

Two petitions have been filed requesting that the same scientific study be conducted at Biscayne National Park, but we have been denied. So here we are today. We hope you can resolve this matter quickly. You have the oversight authority that I do not. I would like to know from the National Park Service why it is taking so long for our voices to be heard. At the very least, I deserve an explanation of what could be so important that my business and livelihood must suffer.

Enough is enough. This ruling was issued 6 years ago. Until now, we've been largely ignored, and the layers of red tape at the Park Service pile higher and higher. I implore you to demand an environmental assessment and rulemaking begin immediately at Biscayne National Park. Otherwise, the National Park Service will simply tell us that Biscayne National Park wasn't part of their original plan, so we should just go away and be ignored.

Thank you for calling this hearing and investigating this matter. Please use your leadership and oversight to put an end to the rulemaking delays that have caused great hardship for small businesses and boaters. Thank you very much.

Mrs. MILLER. Thank you very much, Mr. Hamer.

[The prepared statement of Mr. Hamer follows:]

John Hamer Testimony – House Committee on Government Reform
March 15, 2006

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Mr. John Hamer
Owner
Motorsports of Miami

Testimony
Before the Committee on Government Reform, Subcommittee on Regulatory Affairs
United States House of Representatives

Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal
Watercraft
March 15, 2006

House Committee on Government Reform
Regulatory Affairs Subcommittee
Hearing on the National Park Service's Stalled Rulemaking Efforts on Personal
Watercraft March 15, 2006
10:00 AM
2247 Rayburn House Office Building

Testimony for Mr. John Hamer
Owner, Motorsports of Miami

Good morning. Thank you for inviting me to testify before this subcommittee. My name is John Hamer. I own and operate Motorsports of Miami along with my business partner. Our shop is a dealership that sells, services and rents personal watercraft (PWC), sport boats, motorcycles and off-road vehicles. My dealership is located in an area of Miami known as Cutler Ridge, which is between the heart of the City of Miami and Homestead. It is also the closet personal watercraft dealership to Biscayne National Park.

Ninety-five percent of Biscayne National Park's 173,000 acres are covered by water, making it the largest marine park in the National Park System. It is truly one of the most magnificent destinations in the country for boating. I have seen first hand all the ebbs and flows of personal watercraft popularity due to the ban of PWC at Biscayne National Park, which went into effect in 2000. I can personally attest to the fact that my business suffered greatly due to the PWC ban.

I have been in the motorsports business since 1973. At first I primarily sold motorcycles and ATVs. In 1981 my partners and I relocated the shop to South Dade where we began to sell personal watercraft and they increasingly became a very important part of our business. Of all the products we sold, personal watercraft sales skyrocketed in the early-1990s. At one point we were selling on average 800 personal watercraft per year. Our sales were so high that we hired personnel dedicated solely to PWC sales and service, in addition to opening a new showroom used exclusively for this purpose as well. The market for personal watercraft was growing exponentially with all different types of consumers became interested; middle-class couples and families considered these small maneuverable boats an affordable way for them to get out on the water.

In South Florida boating is not a hobby, it is a lifestyle. From big multi-million dollar yachts, to center console outboards, to personal watercraft – everyone who lives down there wants to get out and enjoy their surroundings. In the late 1990s when news began to spread about the possibility of banning personal watercraft use at Biscayne National Park our customer base declined markedly. Customers simply were not going to invest in a boat – even in a modest boat like a PWC – if they couldn't use it near their home.

You might think to yourself that being in Miami there are plenty of other places to boat. If not Biscayne, then someplace else. This isn't the case. When personal watercraft were banned from Biscayne National Park, boaters had no other choice but to trailer their boats a long distance. From Homestead, FL it can easily take over an hour to get to the next closest boating destination Key Largo, where PWC use is permitted.

Even before the personal watercraft ban went into effect in 2000, the rumors around the potential ban precipitated a decline in PWC sales at my shop. Sales slipped from an average of 800 vessels per year to 200 per year in the late 1990s and by 2002 sales leveled off at 25% of previous sales. To be more specific, we sold just 201 PWC in 2005.

Since my shop is located directly next to a park where personal watercraft are banned, we felt a hit more drastic than other PWC dealers. As Ms. Laura Baughman pointed out in her study, the average decline in personal watercraft sales due to the bans was 60%, where my shop suffered a 75% decline. This sharp decline in sales forced Motorsports of Miami to downsize, the personal watercraft showroom closed, repairmen were laid off and our business shrunk. I watched the successful business I built nearly shatter. It is clear to me that this loss in personal watercraft sales was due to no factor other than the PWC ban because sport boat sales went up in this same time period.

To really appreciate the absurdity of the Biscayne ban you must see it for yourself. There are no physical boundaries that wall-off the waters of Biscayne National Park from those of the Atlantic Ocean. So imagine you are a personal watercraft rider; you have to ride 8 miles or more out in the waters of the Atlantic Ocean where the waves become larger and the ride becomes more dangerous. Furthermore, since there is no sign that tells you when

you have passed the boundaries of the park, you don't know when it is allowable for you to return closer to shore. And in the meantime, all other types of boats: fishing boats, pleasure boats, and commercial shipping vessels, are cruising through the waters of Biscayne National Park. That's right -- all other boats. There is even a large mega-ton fuel barge that chugs through Biscayne National Park each week as it services the nuclear power plant on its shoreline.

It is not only businesses like mine that have suffered due to the ban, but also the boaters. The value of their boats suffered, not only from a resale point of view, but also as far as their use was concerned. As I look back, the most frustrating part about this whole situation is that the authorities at Biscayne National Park have never even conducted an environmental assessment to investigate whether this ban is warranted or not. I understand that a letter came down from National Park Service Headquarters here in Washington, DC alleging personal watercraft were bad for the environment and therefore the park could ban them.

As you know now, these allegations have been proven untrue not in one or two instances, but in 15 consecutive instances where national park units conducted an environmental assessment since the year 2002. We have asked for the same scientific study at Biscayne National Park but we have been denied. When a petition was filed in 2004 demanding that a scientific study be conducted, it was denied. When a Freedom of Information Act request was submitted to learn why the Park Service denied the petition, it offered no valid reason for the ban. Someone's bias assumed we would never end up here testifying about this matter before the United States Congress. This someone is likely tucked away at the National Park Service. They have no idea what devastating impact their arbitrary decisions are having on small businesses like mine.

And I am not the only one protesting these decisions. Nearly 1,000 other boaters mobilized just last month in South Florida through the BOAT Biscayne coalition to demand the environmental assessment study begin to determine whether the ban of PWC in Biscayne National Park is justified or not. Last month, I pledged my company's support when the Personal Watercraft Industry filed another petition with the U.S. Department of the Interior to once again reconsider the ban at the park.

But here we are today and I truly am grateful Congress shares my deep frustration. I hope you can resolve this matter quickly

In closing I want to convey to this Subcommittee that personal watercraft are remarkably friendly to the environment. I know this because I sell PWC for a living and have watched first-hand with every model year how these boats have become cleaner and more efficient. I would like to know from the National Park Service why is it taking so long for our voices to be heard? At the very least, I deserve an explanation of what could be so important that my business and livelihood must suffer.

These boats don't cause the environmental harm that some allege. Enough is enough. This ruling was issued six years ago and until now we've been largely ignored and the layers of red tape at the Park Service pile higher and higher. I ask this Subcommittee to press the National Park Service to answer why my business, and others like me, must suffer indefinitely due to unfounded allegations and bureaucratic delays.

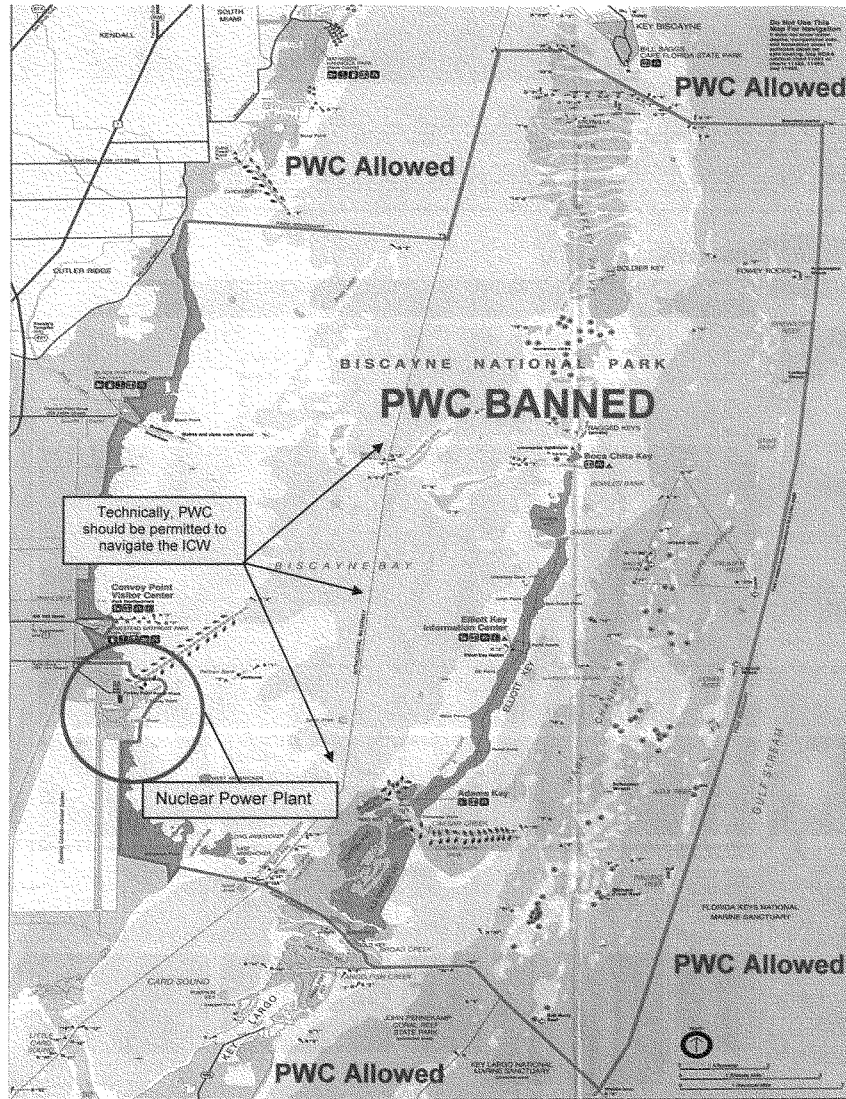
It's absolutely critical that this Subcommittee walk away with one very clear point – that NPS regulatory and bureaucratic delays are causing severe economic harm across the country. The National Park Service committed to completing environmental assessments and rule makings during a two-year window, by 2002, so business owners like me would not suffer without reason. These rule makings still languish years over due in many parks across the country.

I also implore you to demand an environmental assessment and a rulemaking begin immediately at Biscayne National Park. Otherwise, the National Park Service will simply tell us that Biscayne National Park wasn't part of their original plan so we should just go away and be ignored.

Thank you for calling this hearing and investigating this matter. I appreciate the opportunity to speak on behalf of the millions of families who enjoy riding their personal watercraft and the businesses who support them. Please use your leadership and oversight

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to put an end to rulemaking delays that have caused great hardship for small business and boaters. Thank you very much.



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BISCAYNE NATIONAL PARK – MIAMI, FL

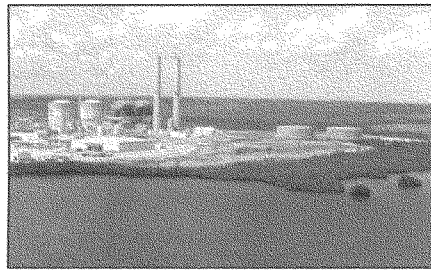
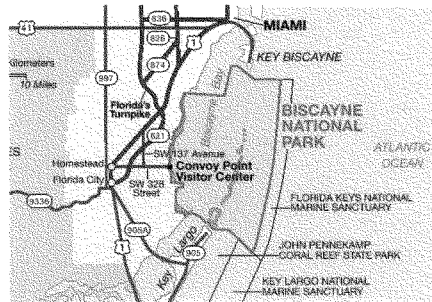


Image: Turkey Point Nuclear Power Plant,

located on Biscayne Bay in Biscayne National Park



Image: Container ship in Biscayne Bay

News stories about the fuel barge that serves Turkey Point Nuclear Power Plant in Biscayne National Park. This fuel barge travels through the park's waters frequently and even once ran aground. Meanwhile, only PWC are banned for alleged environmental impact.

Excerpt from The Boating News.

"Atlantic Intracoastal Waterway Woes," May 2, 2005

http://www.theboatingnews.com/intracoastal_wtrway.htm

"In Biscayne Bay, south of Miami, the fuel barge with its tug plows a brown scar through the middle of Biscayne National Park almost every day to and from the Florida Power and Light nuclear plant at Turkey Point. The park service doesn't want any legal dredging of the bay because that could mean more boats could travel safely, disrupting the peace and quite enjoyed by park rangers.

The wealthy landowners who live on the way from the Port of Miami to Turkey Point don't want fuel trucks rumbling through their neighborhoods, so the tug and barge prevail. Should a manatee family or school of porpoise happen to get caught in the Biscayne Bay channel with the tug and barge, the risk of lethal impact ramifies. Meanwhile pleasure boat operators who get lost in the badly marked and improperly dredged Bay are fined up to \$50,000 for running aground on the sea grass."

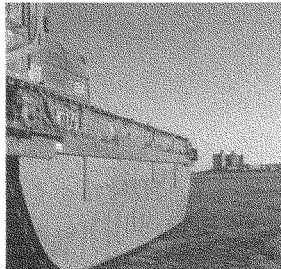


Image: Photo of fuel barge in Biscayne National Park

Excerpt from The Miami New Times

http://www.miaminewtimes.com/issues/2000-09-21/news/feature_print.html#

Originally published by *Miami New Times* Sep 21, 2000

In Too Deep

Four years ago a dangerous chemical tanker ran aground in Biscayne National Park. The salvage operation that followed would go down in history.

BY JACOB BERNSTEIN

"The Igloo Moon had run aground a little more than three miles from Key Biscayne inside Biscayne National Park. From Stiltsville she would have appeared peacefully at anchor. Yet on the way to her resting spot, the Igloo Moon had powered through enough coral reef to rupture four of its oil and diesel-fuel tanks. The ship carried about 100,000 gallons of diesel fuel and lube oil, much of it housed in tanks in a double-bottom hull. The release of the oil could kill untold numbers of birds and fish and damage productive mangroves for years to come."

Mrs. MILLER. Our final witness this morning is Carl Schneebeck. He's a public lands campaign director for Bluewater Network, a position he's held since 2003. Before this, he managed a number of public land campaigns for the Jackson Hole Conservation Alliance in Jackson, WY; he served as a ranger naturalist at the Grand Teton National Park for 4 years, taught national history at the Teton Science School, and completed an internship at Muir Woods National Monument in California.

A lifelong outdoor enthusiast, obviously, so we certainly appreciate your attendance at the hearing today and look forward to your testimony.

**STATEMENT OF CARL SCHNEEBECK, PUBLIC LANDS
CAMPAIGN DIRECTOR, BLUEWATER NETWORK**

Mr. SCHNEEBECK. Good morning. Thank you for having me here today. My name is Carl Schneebeck, and I am the public lands campaign director for Bluewater Network, a division of Friends of the Earth. I'm also testifying this morning on behalf of the Wilderness Society and the National Parks Conservation Association.

I have had the privilege of serving as a National Park Service ranger in Grand Teton National Park, and I would contend that's the most beautiful place in the world.

When Congress created the National Park Service in 1916 with the Organic Act, it gave the agency a clear mission that's been mentioned this morning, to conserve the scenery and the natural and historic objects and the wildlife therein, and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

National Park Service professionals are entrusted with making decisions that uphold the agency mandate by determining the health and future of individual park units and the system as a whole, including the type of experience that will ensure the safety and protection of visitors; natural resources, including wildlife; and other park professionals. It was in keeping with this mandate that the National Park Service began prohibiting personal watercraft in individual parks in the late 1990's and finalized a systemwide rule in 2000.

The economic analysis conducted by the Trade Partnership is premised on the tenuous assumption that the primary reason for the declining sales has been the bans on personal watercraft use in most of the U.S. National Parks. To suggest that National Park bans are the primary factor is inconsistent with reasons that the industry has publicly cited as responsible for sales declines, fails to acknowledge negative press about safety and noise issues, and provides no concrete evidence to substantiate this claim. Rather, by a process of elimination, the study concludes that personal watercraft bans in the National Parks are the most plausible explanation. An article posted on the Personal Watercraft Industry Association Web site analyzing sales trends points to negative press from safety, noise and emissions issues but makes no mention of bans in National Park areas as being responsible for sales declines. In a 2004 press release announcing its decision to discontinue production of personal watercraft, Polaris cited the declining market, escalating costs and increasing competitive pressures as reasons for exiting

the market. The company made no mention of bans in National Park units as a reason for discontinuing sales of personal watercraft.

The Trade Partnership study also did not factor in the significant negative press generated by safety concerns of personal watercraft, including a report by the Center for Disease Control and Prevention in 1997 that found that there had been a fourfold increase in personal watercraft injuries between 1990 and 1995. The Trade Partnership study fails to consider these significant contributing factors to the negative press concerning personal watercraft use and provides no concrete evidence that the National Park Service bans are primarily responsible for the decline in personal watercraft sales in the last 10 years.

By design, personal watercraft are fast, powerful machines, marketed for speed, adrenaline and thrills. Advertisements for personal watercraft promote them as high-performance muscle craft and include messages such as: See those blurred colors streaming by you? That is called scenery. Scenery is for saps. And: Next time you see ripples on the water, you'll know why it's trembling.

There is nothing wrong with a thrill ride, but these thrills come at a high price to park resources and impair other visitors' ability to safely enjoy National Park areas, as evidenced by a number of studies and reports including several conducted by the National Park Service itself. Other State and Federal agencies, organizations and universities have also provided documentation of the distinct impacts caused by the use of jet-skis on natural resources and the safety and enjoyment of other recreational users. Personal watercraft have proven damaging to air and water quality, visitor safety and enjoyment, natural soundscapes and wildlife, and pose significant enforcement problems.

It was for these reasons, in keeping with the agency mandate, that the National Park Service prohibited personal watercraft in the majority of the National Park system.

At a hearing before the House Subcommittee on National Parks last May, a representative from Yamaha called the full National Environmental Policy Act [NEPA], analysis, "a costly burdensome requirement." And while no irony is lost on the jet-ski industry's need for speed, it is not how hastily the National Park Service conducts these rulemakings that is vital to fulfilling this mandate, rather how thoroughly.

In many of the studies conducted to date on personal watercraft use in the parks, we have found several deficiencies, including a failure to adequately monitor water quality at Lake Mead National Recreation Area, exclusion of data on impacts of dolphins at Assateague Island National Seashore, and an inadequate assessment of safety threats posed to park visitors by personal watercraft use.

As these deficiencies demonstrate, the National Park Service has been hasty in the rulemaking process; details have been overlooked. Without a thorough analysis, the National Park Service runs the risk of allowing use that is damaging to park resources and hence in defiance of the clear agency mission. The National Park Service needs to take its time and ensure that rulemaking

process is thorough and in keeping with the mandates of the Organic Act.

Since its inception, the gold standard of the National Park Service has been to preserve and protect park resources. The agency is mandated to actively protect natural resources for visitors to enjoy for generations to come. The agency must conduct thorough studies and not be forced to view the NEPA process as a burdensome hoop to jump through, as the industry does. A careful review of uses, recreational or otherwise, that have the potential to impair park resources should not be considered a burden. Visitors expect park units to be safe and protected when they visit them, and this expectation should not be compromised.

I thank you for your time this morning and for having me here.
[The prepared statement of Mr. Schneebeck follows:]

**Carl A. Schneebeck
Public Lands Campaign Director
Bluewater Network -- a division of Friends of the Earth**

**Testimony
Before Subcommittee on Regulatory Affairs
United States House of Representatives**

Hearing On Personal Watercraft Rules in the National Park System

March 15, 2006

Good morning Chairman Miller and members of the Subcommittee. My name is Carl Schneebeck and I am the public lands campaign director for Bluewater Network, a division of Friends of the Earth. I am also testifying today on behalf of The Wilderness Society and the National Parks Conservation Association. I have also had the privilege of serving as a national park ranger at Grand Teton National Park in Wyoming for four years. The issue before you today – regulating personal watercraft use in the National Park System and more generally, managing for visitor safety and enjoyment in the parks while protecting natural resources, is one with which I have extensive experience as a ranger and a park advocate.

The national parks are intended to preserve the nation's treasures in perpetuity. This can only be accomplished by preserving and maintaining each park's special features and the ability of citizens to enjoy those features in a manner that National Park Service professionals judge will leave them unimpaired. When it created the National Park Service in 1916 with the Organic Act, Congress gave the agency a clear mission:

...to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

Congress reaffirmed and further clarified the Park Service mission in the 1978 Redwood Act, stating:

...the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park system and shall not be exercised in derogation of the values and purposes for which these various areas have been established....

A fundamental purpose of parks also includes “enjoyment” of park resources. This enjoyment is meant broadly to include people who visit parks as well as those who derive benefit from simply knowing that our national parks exist. The courts have time and again interpreted the 1916 Organic Act as holding conservation of park resources preeminent over enjoyment of them; visitor use must not cause impairment of park resources and values.

Our national parks provide the opportunity for an incredible diversity of recreational and contemplative experiences for the more than 270 million people who visit them each year. National Park Service professionals are entrusted with making decisions that uphold the agency mandate by determining the health and future of individual park units and the system as a whole, including the type of experience that will ensure the safety and protection of visitors, natural resources including wildlife, and other park professionals.

In 2000, the National Park Service, in keeping with this clear mandate, finalized a regulation that prohibited personal watercraft use from all but 21 park units. In those park units, if personal watercraft use was to continue the agency would have to determine if jet skis conflict with the National Park Service mission, damage natural and cultural resources, threaten public safety, or impact wildlife. The rule provided a two-year grace period for those 21 park units to promulgate special regulations; otherwise bans would go into effect in 2002.

In August 2000, Bluewater Network filed suit against the Department of the Interior and the National Park Service challenging the provision of the rule that permitted parks to allow personal watercraft use without conducting an environmental assessment and a formal rulemaking. Through a settlement agreement, the National Park Service agreed that all parks would be required to conduct a rulemaking with an environmental assessment. Otherwise, beyond the grace period (extended for eight park units in the settlement agreement) identified in the final rule, personal watercraft use would be prohibited. In keeping with the agency mandate, the National Park Service recognized the impacts of personal watercraft and the need to regulate their use.

Most Americans are familiar with personal watercraft (PWC), commonly referred to by the trade name “jet ski.” By design, personal watercraft are fast, powerful machines marketed for speed, adrenaline and thrills. Advertisements for personal watercraft promote them as “high-performance musclecraft” built for “those always seeking the next greatest thrill.” Other messages from personal watercraft industry advertisements include:

- “You were once afraid of the water. My, how the tables have turned.”
- “It’s enough to make webbed toes curl.”
- “See those blurred colors streaming by you? That’s called scenery. Scenery is for saps.”
- “They have yet to invent a radar gun that can measure this.”
- “Hang on and keep telling yourself, ‘It’s just a leisure activity.’”
- “Next time you see ripples on the water, you’ll know why it’s trembling.”

There is nothing wrong with a thrill ride. But these thrills come at a high price to park resources and impair other visitors’ ability to safely enjoy national park areas, as evidenced by a number of studies and reports, including several conducted by the National Park Service itself.

A report at Delaware Water Gap National Recreation Area examined the noise impacts of personal watercraft and found that “despite the presence of traffic noise from U.S. 209 and other park roads and the presence of motorboats, including fishing and water-ski craft, it is the particular noise produced by PWC that are described as most annoying. The character of PWC noise differentiates it from the background drone of road traffic and from other motorboats used for touring, fishing or water skiing.” At Whiskeytown National Recreation Area, the National Park Service found that “PWC significantly distract from the enjoyment of Whiskeytown. Issues of noise, safety, and incompatible behavior are common and frequent complaints.” At Cape Hatteras National Seashore, the National Park Service acknowledged that personal watercraft degrade visitor experiences, reporting that prior to the PWC ban, the number one source of visitor complaints was the use of the craft.

At Assateague Island National Seashore, park rangers reported witnessing jet skis illegally harassing dolphin pods on “numerous” occasions, chasing the animals out of “productive feeding areas.” At Padre Island National Seashore the National Park Service states that personal watercraft “disturb important sea grass habitat and fish populations, move and alter recreational fishing patterns, reduce development of young marine life populations, and negatively impact reproductive activity and overall marine productivity by impacting habitat.” A report at Cape Canaveral National Seashore found that high speed jet ski use in shallow waters displaces wildlife from preferred habitats, disrupts foraging activities, and even results in direct mortality.

A study at Cape Cod National Seashore found that personal watercraft “adversely impact wildlife and aquatic vegetation” because the machines “have a shallow draft, which gives them the ability to penetrate areas that are not available to conventional motorized watercraft.” The report concluded that “PWC operation poses considerable threats to estuarine flora and fauna; pollutes waters essential to commercial and recreational shellfishing and recreational fishing in the park; poses unacceptable risk of injury to operators and bystanders; conflicts with the majority of other longstanding uses of the Seashore; and is an inappropriate use of the Seashore since PWC noise intrusion is inconsistent with the intent that the Seashore be a place of refuge from noisy urban environments.”

Even in park units where personal watercraft have been permitted by promulgation of special regulations, the National Park Service has distinguished PWC from other motorized craft and restricted the use of the machines. At Pictured Rocks National Lakeshore, PWC are restricted to a six mile section of the 40-mile long lakeshore and may launch only from one designated site. At Assateague Island National Seashore, personal watercraft are allowed at two access points on the island and prohibited on the majority of park waters. Personal watercraft are prohibited from the majority of park waters at Fire Island National Seashore. Bluewater Network maintains that personal watercraft are inappropriate in the National Park System and that only a complete ban is sufficiently consistent with the agency mandate to protect park resources and the ability

of visitors to safely enjoy them. While these parks did not choose to ban jetskis entirely, use of personal watercraft was restricted for many of the same reasons that other parks decided to ban the use, including resource protection and visitor safety and enjoyment issues.

Other state and federal agencies, organizations and Universities such as the Mote Marine Laboratory, the American Waterworks Association, the California Air Resources Board, the U.S. Fish and Wildlife Service, the Vermont Water Resources Board, the National Oceanic and Atmospheric Administration and the University of Florida, have also provided documentation of the distinct impacts caused by the use of jet skis on natural resources and the safety and enjoyment of other recreational users. A University of Florida study found that when compared with children injured in small motorboat accidents, those involved in jet ski accidents “tended to have more serious injuries and require operative intervention more frequently.” Personal watercraft account for roughly seven percent of all registered motorboats on the water, but according to 2004 U.S. Coast Guard statistics, jet skis are involved in approximately 25 percent of all reported accidents, and account for 28 percent of all reported injuries. Finally, personal watercraft pose significant enforcement problems, especially considering the lack of staff and funding resources that most park units face today. As a park ranger at Cape Lookout National Seashore observed in 2001, “many jurisdictions that have established rules are also unable to enforce them because they don’t have enough staff, training, or equipment. And without enforcement – without the ability to get in there and enforce the regulations, those rules are ineffective.” Personal watercraft are designed, marketed and used as thrillcraft and have proven damaging to air and water quality, visitor safety and enjoyment, natural soundscapes and wildlife and pose significant enforcement problems. It was for these reasons, in keeping with the agency mandate, that the National Park Service prohibited PWC in the majority of the National Park System.

The personal watercraft industry also recognizes the distinguishing impacts of these machines and the legal mandates that require the National Park Service to prohibit the craft in places such as Yosemite, Yellowstone and the Grand Canyon. An American

Watercraft Association representative provided testimony before the House National Parks Subcommittee in July of 2000 stating that motorized recreation such as personal watercraft is not appropriate for every unit of the National Park System. A former Personal Watercraft Industry Association (PWIA) executive director put it more concisely when she was quoted as saying that “personal watercraft should not be allowed in every park.” The March 21, 2000 final rule for personal watercraft use in the National Park System states, “PWIA also acknowledges that PWC use may be inappropriate in some areas of the National Park System.”

In all six of the park units where PWC studies are currently underway or have recently been completed (Gateway National Recreation Area, Cape Lookout National Seashore, Gulf Islands National Seashore, Big Thicket National Preserve, Curecanti National Recreation Area and Padre Island National Seashore), personal watercraft users comprised less than one percent of all visitors to these park units prior to the ban. At the same time, park visitation has either increased or remained steady at nearly all park units from which personal watercraft have been banned. Curecanti has seen its average annual visitation increase by 32 percent, Cape Lookout has experienced a 15 percent average annual visitation increase since the ban went into place, and Padre Island’s average annual visitation has increased 17 percent. Gulf Islands and Big Thicket experienced visitor increases after the ban until last year when both units sustained significant hurricane damage and visitation dropped dramatically.

Meanwhile, sales of personal watercraft have decreased significantly since a peak in popularity in 1995 when 200,000 units were sold. By 2004, sales had plummeted to 79,000 units. Deeming the market unviable, Arctic Cat and Polaris have discontinued production of personal watercraft. In a 2004 press release announcing this decision, Polaris cited a declining market, escalating costs and increasing competitive pressures as reasons for discontinuing PWC production. This downward trend began five years before the National Park Service promulgated rules to regulate jet skis. Considering the scant use that took place in these units prior to the ban, and the high number of more popular locations for PWC use adjacent to these park units, there is little evidence to suggest that

the ban had any influence on the popularity of PWC. Despite this trend, dealers appear to be adjusting to the changing market. A Florida PWC dealer testified before the House Subcommittee on National Parks last May that “when the impact of the ban [at Biscayne National Park] hit my business, I was fortunate enough to diversify and as a result, grow my business. Today, because we sell scooters, off-road vehicles, motorcycles, and larger boats, I am able to employ even more local residents than before.”

Any notion that the delayed rulemaking process is responsible for the downturn in popularity of personal watercraft is not substantiated by the facts. Currently, more than 97 percent of all inland waterways in the United States allow the use of personal watercraft. Nearly 99 percent of all U.S. ocean waters are open to jet ski use. A mere two percent of navigable waters in the U.S. are within National Park Service jurisdiction. Meanwhile, much of the press coverage of personal watercraft in the last ten years has concentrated on the abysmal safety record of the machines. There are plenty of places to ride personal watercraft, but the hard truth for the industry is that there is a declining interest in doing so.

On a side note, because this hearing is concentrating on the timing of regulations, it is important to note that at least three of the parks in question have been affected by the hurricanes that ravaged the Gulf Coast and Eastern Seaboard last summer, which has provided major management hurdles for these park units. As a result of damage from Hurricane Katrina, park employees at Gulf Islands have been scrambling to re-open the seashore despite minimal funding. As of February, only 20 percent of the seashore was open to the public. At Big Thicket National Preserve, Hurricane Rita destroyed park headquarters and employees have been working out of temporary trailers for the last several months. There has been little funding to repair park infrastructure, let alone complete day-to-day work. At Cape Lookout National Seashore, park staff reported that damage to infrastructure from Hurricane Ophelia closed the park and required significant staff time to repair. It seems reasonable that releasing rules governing personal watercraft use have not been a top priority for these park units.

It is critical that the National Park Service is given the latitude to conduct thorough and methodical rulemaking procedures at the park units in question. At a hearing before the House Subcommittee on National Parks last May, a representative from Yamaha called the full National Environmental Policy Act (NEPA) analysis a “costly, burdensome requirement.” While no irony is lost on the jet ski industry’s need for speed, it is not how hastily the National Park Service conducts these rulemakings that is vital to fulfilling its mandate, rather how thoroughly. In many of the studies conducted to date on personal watercraft use in the parks we have found several deficiencies including:

- failure to adequately monitor water quality at Lake Mead NRA
- exclusion of data on impacts to dolphins at Assateague Island NS
- a lack of information on how PWC affect other uses at Fire Island NS
- failure to consider the adverse economic impacts of PWC use at Pictured Rocks NL
- inconsistencies with visitor use data at Glen Canyon NRA
- inadequate assessment of safety threats posed to park visitors by PWC use at six park units

As these deficiencies demonstrate, when the National Park Service has been hasty in the rulemaking process details have been overlooked. Without a thorough analysis, the National Park Service runs the risk of allowing use that is damaging to park resources and hence in defiance of the clear agency mission. The National Park Service needs to take its time and ensure that the rulemaking process is thorough and in keeping with the mandates of the Organic Act.

Since its inception, the gold standard for the National Park Service has been to preserve and protect park resources. Preserving park resources is intrinsic to the “park service experience.” American and international citizens visit National Park System units to enjoy the scenery or cultural and historic values. The agency cannot compromise this expectation – it is mandated to actively protect natural resources for visitors to enjoy for generations to come. The agency must continue to conduct thorough studies and not be forced to view the NEPA process as a burdensome hoop to jump through as the industry does. A careful review of uses, recreational or otherwise, that have the potential to impair park resources should not be considered a burden. Visitors expect park units to be safe and protected when they visit them and this expectation should not be compromised.

Thank you

Mrs. MILLER. Thank you very, very much.

I want to thank all the witnesses. We have quite a bit of difference of opinion amongst all of you, and that is really what the purpose of the hearing is today.

Ms. Taylor-Goodrich, I guess my first question would be for you. First of all, it is unusual to have other Members of Congress that are not even on a committee come, as Mr. Akin had done and wanted to make comment on this issue. It is unusual to have chairmen of other committees submit testimony for the record. And I don't know if it's completely unusual, but I guess my point is that this is an issue, obviously, that, as I say, is throughout the entire Congress.

And there does appear to be an incredible amount of frustration about this rulemaking and the deadlines that have been passed. And in 2005, actually, both Chairman Pombo, who is the chairman of the Resources Committee, and myself, and also Chairman Manzullo, who is the chairman of the Small Business Committee, had sent a letter to Director Mainella; we were asking for dates when the PWC rules would be complete. And, you know, every time the deadlines are just failed; they are failed to be met, certainly. And it seems as though they just, the Park Service just keeps pushing this back for completion every time we ask about it. In my office, if somebody were just to blow us off, I would demand accountability.

And I guess two questions. First of all, what is going on? Second, who actually is the person who is responsible for, ultimately responsible for the Park Service's failure to meet self-imposed deadlines, if you can comment?

Ms. TAYLOR-GOODRICH. Park regional and our Washington office staff are working with a contractor to move ahead as quickly as possible on the environmental analysis, certainly as part of the larger rulemaking process, and to complete the five remaining parks. We are working as quickly as we can with the staff that we have available to us. I don't have one individual to cite for you regarding a person to blame for this hesitation.

Since 2000, in the settlement agreement, we've been working as hard as we can with the resources that we have spread across the parks that are involved as well as the Washington office to address not only the correspondence we are receiving from the industry and the organizations that are interested in PWC use, but we also have other kinds of regulatory affairs that we have to deal with on a day-to-day basis and that we have a limited staff to deal with. And so we are constantly having to juggle priorities.

PWC use is the regulations program manager's highest priority, and that's under my purview, and he is working as fast as he possibly can with the assistance of the regions and the parks and their available staff to get the rulemaking process and all the dynamics from Federal Register to actually writing the rules, and then the EA process in particular is probably the most lengthy process, and we have a contractor working specifically in the parks to get that moving. But just the public involvement process in itself takes quite a bit of time with the length of open period for comment and the number of reviews that are needed, let alone just the science that we have to build into each one of our EAs. And having been

an environmental compliance specialist at one point in my career, as well as a ranger, it is a lengthy process because you have a number of responsibilities under NEPA that you have to—that you are obligated to check as you are going through the process.

So, with a limited staff, we are doing absolutely as much as we can. I mentioned some specific updates on the areas that are pending, the five parks that are left.

Mrs. MILLER. Let me, I think you just told me, you are too busy, I believe, is what you said. And I appreciate that. Everybody is busy. You ought to follow a couple Members of Congress around for a day; we have a lot of things going on as well. But when you have a specific deadline, people are wanting to hold you to that.

Could you commit today to a specific deadline? I know you talked in your testimony about generalities.

Ms. TAYLOR-GOODRICH. I did not mean to imply that we are too busy. What I really mean is that we, with the limited staff, the resources we have, we are working as fast as we can. That doesn't mean we are too busy to make it the highest priority. Right now, it is our regulations program manager's high priority. And I can only look at where we are. I can't give you an exact date with an absolute; I can give you projected dates specific to each area and where they are in the rulemaking process, the final rulemaking being 2007 for the final park. And that's the Big Thicket Preserve, and that's the summer of 2007. But we are anticipating most everything out, at least the draft rules out by this summer.

Mrs. MILLER. One of the, I think it was Ms. Baughman who had mentioned, in 1998, when the first rule came out, at that time, it was said that there was little or no economic impact by having such a ban. I would just ask, I guess, to the committee generally, first of all, Ms. Taylor-Goodrich, would you believe that is a correct statement, that the ban—there is little or no economic impact on the National Park system by the ban—or on the PWC industry because of the ban? Do you have any comment on that? Perhaps you don't.

Ms. TAYLOR-GOODRICH. I don't have a comment. I can't go outside of what our economic studies have indicated.

Mrs. MILLER. Do you normally take into consideration economic impact when you are doing these kinds of rulemaking?

Ms. TAYLOR-GOODRICH. We do look at economic impact as part of the environmental assessment process. And it's primarily for localized communities.

Mrs. MILLER. Could I also ask—again, I've been a boater my entire life, all kinds of different—actually, I was a yacht broker by trade before I ever got involved in Congress. Actually, during the summer months, it was great because I could go demonstrate my product. But we primarily were in the sailboat industry, but we've had power boats in our family for years. We have a little 23-foot Pro Line right now. And I have watched the PWC industry evolve over the years. And, you know, there are bad actors in every industry, and you see people that are out there abusing all kinds of watercraft. And they don't understand the rules of the road. They don't have a clue what port from starboard means. They drink too much. They want to go too fast. Perhaps they haven't taken boating safety classes, etc.

But, you know, you can get a—I don't want to use specific types of boats, but, I mean, a small—I mean, a Boston Whaler or small types of boats, you know, maybe an 18-foot with an awful lot of horsepower on it that has no draft to speak of that can go everywhere that a PWC does in any park or any body of water, and that boat operator can be—can have obnoxious behavior as well. Why are we just focusing on PWCs really? I mean, why not just look at every type of motorized vehicle? And it would seem to me, I mean, if you are in a park where you have a guy on an inner tube that's out of control, you have a park superintendent or whoever eject them. Why are we just focusing on PWCs to the extent that we are with a complete ban?

Ms. TAYLOR-GOODRICH. It might have the appearance of just, as far as an enforcement aspect, focusing on PWCs. Public safety over the safety of small craft like PWCs are just part of our overall visitor resource protection mission. The ban of PWCs, some of it has to do with public safety, but it's not the sole reason. But boating safety in general, watercraft use, boating, motorized boating safety is a paramount concern for the National Park Service, and our law enforcement rangers in parks that have this kind of use, PWC use or motorboat use or any other kinds of use by motor vehicles, anything that would have a concern for public safety, are cognizant of the kinds of characteristics to look for, certainly, when you are looking for unsafe behavior.

So it's not limited to PWCs; PWCs in particular, because they are considered go-fast vessels for primarily speed and short turnaround and perhaps even stunts, as one person had mentioned, primarily. That is not the sole purpose. They are considered a higher safety concern, but it is just one part of the concern overall for PWCs.

But we have a really good example on what we are trying to do to educate those folks in recreation areas. Lake Mead has a public safety or boating center now, and there are even parks like Lake Roosevelt National Recreational Area that will actually issue personal equipment, life jackets, for some of our users so they don't have to be sent back to a store to buy them. So we—in the areas that it is appropriate, we encourage it. We just want folks to make sure that they are doing it in a safe manner. It's not limited to PWCs, but we make boating safety, in mostly recreational areas because that's where you'll find the highest percentage, a high priority, and we just make sure that we have the enforcement staff available. But it is an education as well as an accountability issue.

Mrs. MILLER. You know, I am a big believer in education. I think education is absolutely key. And, again, just sort of my personal observation watching the industry evolve over the years, I mean, I think when the jet-skis or whatever first came out, they were a very inexpensive way to get involved in boating, and \$1,000 or less, turn on a key and off you went. And I think the industry in many ways had a—you sort of had a reputation that came with that very quickly because there were high incidents of problems, talking to some of the different fellows involved in the marine division and everything.

However, it's no longer an inexpensive way to get into boating. Some of these PWCs are quite expensive, and I think that has all changed.

But perhaps I could ask for just a comment, generally, whoever wants to take a swing at this, what your thought is about how the industry has evolved, and perhaps maybe the best practices, worst practices, perhaps. Or let me say it this way: Some of the different State laws that require boating safety classes that have an age limit on operators and whether or not they have to have an adult on the PWC as well; perhaps some of the States that have the most restrictive types of laws and how that has impacted the industry, and some that would have very lenient or no laws in regard to this.

Mr. Garcia, you—

Mr. GARCIA. Madam Chairwoman, yes. I would like to quickly comment on three points that have recently been brought up: the safety; the performance characteristics; and the impact, suggested impact on wildlife such as dolphins.

On the safety issues, we must be aware that PWC accidents reported by the Coast Guard, clearly the authorities on boating safety, have shown a steady decline since 1999 to the point where 99 percent of the time that PWCs are used, are used safely and without injury, 99 percent of the time.

The PWC industry is restless in pushing for greater boating safety. We have a model, a safety act that we continue to seek State adoption. Components of that act include mandatory education, a minimum age of 16 years old, wearage of the corrective safety gear, such as a personal floatation device, wearage of the stop—the emergency stop switch and other components. And at this time, 32 States have adopted either the act or components of the act, but we continue to pursue the balance of the States.

So safety is a primary priority for our industry. But the results are showing positive trends. Again, a steady decrease since 1999. And today, as reported by the Coast Guard, 99 percent of the time personal watercrafts are used safely. I would challenge anyone to find another sector of the marine industry that has such a record and such a commitment to the promotion of safety.

The performance, that the watercraft, as has been suggested, that it is a high-performance watercraft. Just as with other industries, automotive industry, there are segments of the industry. And, sure, one segment is a performance, but it is a small segment. The majority of the market is the family, three-person, two or three-person family cruiser, if I could use that term. It's discriminating to suggest that personal watercrafts are a high-performance or a thrill craft particularly when you go simply down to where John's Market is, Biscayne. You'll have no problem to quickly identify boats that are maneuvering through Biscayne with two to four engines on the same boat, on one boat. So how could the personal watercraft be characterized as a thrill craft with one single engine when it is only one segment of the large market and the smallest segment?

In addition, it was suggested that dolphins have been impacted by personal watercraft. I am not familiar with that study, but I can tell you what I am very familiar with is that a world leader in dolphin research uses personal watercraft in their research work.

That is the Harbor Branch Oceanographic Institute in Florida. They use personal watercraft. They have been using personal watercraft since 1999 because they are safe, not only to the operator but to the dolphin; that they could approach dolphins without injuring them because there is no propeller; their operators are getting in and out of the water to aid the dolphins, and they also approach manatees for rescue; and for the quietness and the environmental friendliness to the water. They are not leaking fuel into the water.

So I want to comment on our commitment to safety and the real results, the real performance of our safety record, and the mischaracterization of a thrill craft, and that wildlife is not harmed. As a matter of fact, leading authorities are using personal watercraft on the West Coast, the Scripps Institute of California, University of California also uses a personal watercraft to research sea horses. Sea horses. Thank you.

Mrs. MILLER. Thank you.

Mr. Hamer, do you have any comment on that? Have you had a personal observation of the dolphins running, swimming away when they see the PWCs coming?

Mr. HAMER. I've had no personal observation of that. But as far as the safety issue in Florida, we do have requirements in Florida that people under 18 years of age have to take a test and be licensed to operate personal watercraft. My children had to do that. When the law went into effect, they took the test and went down and got their little licenses with the pictures on them so they could continue to operate them. The problem was, we had to drive from where we live in south Dade, south Miami, all the way either up to the areas that are north of Fort Lauderdale, over an hour away, or to the Keys for them to enjoy that. Even though they took the course and they made sure that they followed all the rules of the road, for lack of a better word, we weren't allowed to enjoy the personal watercraft where we live. Even though we have a massively big park, where, as Mr. Garcia pointed out, you have cigarette boats with three and four motors burning 20 gallons an hour of gasoline per motor, going over 70 miles an hour in the same park. And, as opposed to a watercraft that, you know, you are going to go out, a three-seater family oriented watercraft and have fun and go out and with your friend and ride around and just enjoy the scenery and what's there. It just doesn't seem fair that you can ban something that has very little impact compared to these big cigarette boats, or in the case of Biscayne National Park, there is a fuel barge that goes and provides fuel to the Turkey Point Power Station that goes right through the park to provide that fuel. The Intercoastal Waterway goes right through the park, which is supposed to be used for people to navigate. Personal watercraft doesn't seem to be allowed to do that. It just doesn't seem fair that is what is going on in the area in South Dade.

Mrs. MILLER. In fairness, do you have a comment as well?

Mr. SCHNEEBECK. Yes, I think the—in terms of safety, we acknowledge that, both in terms of safety and emissions, that the industry has put efforts into improving safety both technologically and in education.

I think it's important to remember we're talking about National Parks, and we're talking about some of the more special places, and they have a mandate to protect these places and the visitors who come to visit them. And so we still have a disproportionate—the Coast Guard statistics from 2004 still show that personal watercraft represent about 7 percent of boats on the water, and they are involved in about 24 percent of accidents on the water. So there is still a disproportionate safety issue there.

When we first approached the Park Service with our petition, we gathered numerous studies that showed that jet-skis are harmful to wildlife, that they are harmful to near-shore areas, and that they still had the emissions issues. And I just want to point out that the emissions issues are still in play. There have been improvements, but the four-stroke machines that have been sold, you know, there are 160,000 new machines that have been sold in the last 2 years. There are 1.48 million personal watercraft still out on the water, according to the industry. That is a very small percentage of these machines that are operating on this new technology. And we applaud the new technology; it is a good improvement. But we still have the problem of the emissions and the noise from older machines.

Finally, I just want to address, you know, in terms of Biscayne, we acknowledge there are other problems in Biscayne National Park, but the Park Service shouldn't be expected to have to treat all of those problems. It should be able to treat one of those problems without having to treat all of them at once, and they certainly should be looking at other problems in other places that could be detrimental to park resources.

Mrs. MILLER. Thank you.

Representative Lynch.

Mr. LYNCH. Thank you, Madam Chairwoman.

I just want to say, just to kind of put all this in perspective. Right now, you can use these personal watercraft, jet-skis, if you will, on 99 percent of the waterways in the United States. So you have 99 percent of the waterways in the United States where you can use jet-skis. Actually, it's more than 99 percent, because about half—a little bit more than half of what the National Park Service has under its jurisdiction; they have about 2 percent of America's waterways under their jurisdiction; 98 percent of the waterways in the United States of America are outside of the National Park Service jurisdiction. And you can currently use jet-skis and personal watercraft in 99—roughly 99.3 percent of America's waterways. But this 0.7 percent—0.7 percent or roughly somewhere between 1.3 percent and 0.7 percent—of the waterways in the United States that are under the National Park Service jurisdiction, you can't use jet-skis. And yet I have heard today that the entire industry, the entire industry is going in the toilet because this 1 percent of the waterways is not available to jet-skis.

Now, I have to ask myself—you know, I live in Boston, and folks keep the jet-skis in their garages, and a regular decision by my constituents and a lot of folks on Cape Cod say, OK, where am I going to use my jet-skis today? And they have about 1,000 opportunities. And they say, I am not going to the National Park because I can't use it there; I am going to go down to the beach; anywhere,

lakes, beaches. And yet you're saying, because folks can't go to the National Park that the whole industry is basically going bankrupt; and that, based on Ms. Baughman—I need to see that study you did for all those jobs that are being lost because this 1 percent of waterways that's been preserved for conservation purposes, this 1 percent—99 percent you can do. This 1 percent is responsible for the downfall of this industry. It's not the product liability suits. It's not the class actions. And there's a ton of those against these watercraft. But go back to Polaris. Their's wasn't this—their problem was they were getting sued in a whole bunch of States for product liability issues. And that's really what's killing this industry.

So I don't buy it. I don't buy it. I don't buy it that this 1 percent that's regulated is the be all and end all of your industry. I don't believe—you know, Bombardier, I know you've got a couple of manufacturing facilities in the United States, but I also know a lot of stuff's going on outside the country. That's fair. That's fair. A lot is going on in Japan as well.

So I don't see every single job here being related to this 1 percent of waterways that's being protected right now by this country and by this law. And I spend a lot of time in Florida. And I do agree, Lake Powell is one of the most beautiful spots in the country. Wonderful. And I aim to keep it that way to the best of my ability. But I just know when people are overstating the case; overstating the case in terms of what this 1 percent, 1 percent of the waterways that remains preserved. You've got 99 percent. Do what you want. Do what you want. We've preserved 1 percent of the waterways here right now under the jurisdiction of the National Park Service that you can't do this because other folks want to use it for a different reason. They might want quiet. They might want to have a pristine environmental—a pristine environment there, and so we've carved out this 1 percent.

So if you can't make your industry work with 99 percent of the waterways in this country, why the heck should I sit up here and believe that, with this 1 percent, first of all, we are going to solve the unemployment problem, because the number of jobs that have been connected to this industry today is just incredible? Talk about a stimulus package. All we've got to do is open up this 1 percent of National Parks, and we'll put the whole country back to work based on what I've heard here today. It's incredible. From folks under oath. And I am supposed to believe this. I've got to tell you, I find it very, very difficult to believe. I find it totally unsubstantiated by the facts here, that this 1 percent—opening up this 1 percent that's protected right now is going to turn this industry around and put everybody in this country back to work. I just don't believe it. I don't believe the billions and billions of dollars that are being laid on—this is extremely incredible that this small percentage of waterways could be responsible for so much devastation and so much unemployment and such downturn in—and such a huge impact in our economy given the fact that these are National Parks, and they are supposed to be undeveloped.

So just—it's been really tough for me to sit here and bite my tongue during this testimony, but there it is. And I have a couple

of markups, too, Madam Chair, and I think I have a vote, too. So I am going to have to——

Mrs. MILLER. We do. We do have a vote on. And if you are not looking for an answer to your statement, we can conclude the hearing.

Mr. LYNCH. No. That was a tirade. That was not a question. Thank you, Madam Chair.

Mrs. MILLER. And I appreciate his passion, which is why he is a great ranking member. We agree to disagree on various things, and that is what democracy is all about.

I am sorry. We have a vote on right now, so we do have to run across.

Mr. GARCIA. May I make one very quick comment?

Mrs. MILLER. Very quick.

Mr. GARCIA. My testimony was the truth. It was the truth. And the reality is, irregardless of the percentage, it's bad government to maintain a ban when their own study shows no impact. Second, it is greater than 1 percent because of the publicity factor across the country.

Mrs. MILLER. OK. We appreciate that. And your testimony is part of the record. And, as I said, we do have a vote on. So I want to thank all the witnesses for being here this morning. It obviously is an issue of great debate. And I know the Park Service is well aware that we are all watching to make sure that the deadlines are going to be adhered to. And thank you all for coming. The meeting is adjourned.

[Whereupon, at 11:37 a.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Chris Cannon and additional information submitted for the hearing record follow:]

The Honorable Chris Cannon
Opening Statement
Committee on Government Reform
March 15, 2006

- Thank you, Chairman Miller, for this opportunity to offer my views on “The National Park Service’s Stalled Rulemaking Effort on Personal Watercraft”
- The purpose of this hearing is to examine the rulemaking process at the National Park Service (NPS) governing Personal Watercraft Use (PWC).
- It is difficult to examine a rulemaking process when there doesn’t seem to be an actual process.
- The NPS has issued rulings regarding which parks allow the use of PWCs and which can’t, but the NPS has complicated matters by delaying the completion of this process in a variety of ways for almost 6 years, thereby making this process completely unclear.

- This lack of clarity has left many national parks in a state of limbo, unsure as to when they will be allowed to grant access to PWCs.
- The carelessness and bureaucratic nature of the NPS has resulted in a loss of revenue for one major industry, the loss of numerous jobs, and the subsequent loss of revenue for our economy.
- The Personal Watercraft Industry Association estimates that that PWC bans by the NPS costs the industry \$144 million per year directly.
- PWIA estimates the NPS bans have cost about 3,300 direct and indirect jobs in 2001-2004.
- We are not here today to discuss the environmental impact of PWCs.
- This issue has already been determined and environmental assessments have already been conducted at each park that PWCs would be allowed.
- In fact, it has been an average of nearly 30 months since the environmental assessments for each of the parks were released.

- The issue of this hearing and my concern is that the government could serve such a destructive nature to business without any rationale.
- The PWC industry has played by the rules and waited patiently for the NPS to complete their rulemaking procedures and yet the NPS has continuously shirked its responsibility.
- The NPS must be held accountable for their gross negligence.
- The NPS must answer why there has never been any scientific study conducted to support the legitimacy of the system-wide PWC bans that exist today in the national parks.
- The NPS must respond to numerous requests by Members of Congress to reconsider NPS bans at national parks that have never been subject to an environmental assessment.
- Finally, The NPS must explain to this Committee why it has created a rulemaking process that condemns an industry by making the default policy an immediate ban on their products.

- In its enabling statute, Congress instructed the NPS ‘to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.’”
- I won’t sit here and debate whether the NPS achieves this mission.
- However, I would think it wise for the decision makers in this particular situation to let this committee know whether the issue of delaying PWC fits within this mission.
- As it stands, preservation doesn’t appear to be the driving force behind this rulemaking process.
- I look forward to your testimony. With that, I yield back the balance of my time.



April 3, 2006

The Honorable Candice Miller
Chair, House Government Reform Subcommittee on Regulatory Affairs
2157 Rayburn House Office Building
Washington, DC 20515

Re: March 15th Hearing: "Taking on Water: The National Park Service's Stalled Rulemaking Effort on Personal Watercraft"

Dear Madam Chairwoman:

Thank you for holding the March 15th hearing to investigate the National Park Service's delays in completing the now long overdue personal watercraft (PWC) rules. Your leadership on this matter will, I hope, bring a swift resolution to this matter.

The personal watercraft community is very appreciative of the attention you are affording to these regulatory delays, and we ask that we be allowed to correct for the record the many inaccurate statements made during the hearing:

- First, the purpose of the hearing was not alleged environmental impacts personal watercraft do or do not have. To the contrary, as you appropriately stated in your opening remarks, the hearing was about "the Park Service's failure to finalize the PWC rules." Because the process that was supposed to be completed by 2002 has yet to come to end, the Park Service's regulatory process to analyze PWC use in the national parks has failed. PWC have stood up to scrutiny and have been proven not to cause environmental harm that would justify banning their use, as indicated by 15 consecutive NPS environmental assessments.
- Secondly, as to the impact PWC have on the environment, PWC are among the most environmentally friendly motorized vessels on the water. PWC manufactured since the 1998 model year (which account for the majority of those on the water today) have achieved up to 90 percent emissions reductions and 70 percent sound reductions. All new PWC sold have always complied with applicable federal and state sound and emissions requirements. **Furthermore, the most recent studies confirm that PWC should not be banned from waters that allow motorboating.** Every environmental assessment finalized by the National Park Service since the 2000 final rule, and there are 15 to date, conclude that PWC present no unique impact on the water. Every final rule that has been issued, 10 to date, has resulted in the restoration of personal watercraft use.
- Third, the National Park Service made a commitment in its Final Rule, published in 2000, to complete PWC rulemakings by the end of a grace period that expired in 2002. Not a single rule was published during this self-imposed two-year grace period and therefore PWC use was banned in the national parks – without the benefit of a scientific analysis to justify the prohibition. PWC were essentially judged guilty until proven innocent and families who purchased a PWC prior to the ban were left searching for another waterway to ride their boat, or even with no place to ride at all. We are now a full six years past the issuance of the Final Rule and the National Park Service has still yet to honor its commitment to complete the rulemakings.

444 North Capitol Street, NW, Suite 640
Washington, D.C. 20001
202.737.9169 Fax 202.928-8114
pwia.org

Gulf Islands National Seashore (MS/FL), Cape Lookout National Seashore (NC), Gateway National Recreation Area (NY/NJ), Curecanti National Recreation Area (CO) and Padre Island National Seashore (TX) have yet to release a final rule. All of these national park units have released environmental assessment studies that conclude PWC have no unique impact on the local environment.

- Fourth, a flawed presumption was made at the hearing that, “99 percent of water allows the use of personal watercraft.” This number was presumably determined by assuming that the NPS manages 1 percent of our nation’s waters, so the other 99 percent must be available to PWC use. This logic is flawed on many levels. It presumes that the remaining 99 percent is suitable for PWC use. More importantly, it presumes that no other federal, state, or local management agency has put into place unreasonably restrictive PWC regulations or outright bans. The sad fact is, the bans at the national park level caused a contagion effect that exists to this day, resulting in many state- and locally-managed waterways prohibiting or proposing the prohibition of PWC. This situation is most vividly illustrated in Rep. Lynch’s own state of Massachusetts, in the district neighboring his own. When the NPS proposed banning PWC at Cape Cod National Seashore, the local towns on the Cape (Provincetown, Eastham, Orleans, Chatham, and Harwich) followed suit with local bans. Finally, most people are unsure of the actual agency (local, state, or federal) responsible for the management of public lands and waters. The general public just views them as parks, and as such, the publicity surrounding the NPS bans have created unnecessary confusion over where a PWC can and cannot be used.

The dramatic decline in PWC sales since the late 1990s mirrors the process that banned PWC in the national parks, from the initial news of the possibility of a national ban, through the decision-making process, through today as some parks remain log-jammed in the regulatory process. In fact, the Personal Watercraft Industry Association has a full-time State Affairs Manager whose entire job focuses on communicating accurate science-based information about PWC technology in an effort to thwart public policies that would prohibit families from being able to use their PWC boats on waterways that allow other types of boats.

This State Affairs Manager also actively advocates for passage of the industry’s model PWC safety legislation, which has been adopted either in full or in part in more than 35 states. This legislation requires that all PWC operators pass a state-certified boating safety education course and be at least 16 years old, allows the vessels to be operated only during daylight hours, and prohibits reckless operation. States that have enacted PWIA’s model bill have witnessed a decline in accidents involving PWC.

- Lastly, PWC do not cause accidents. Reckless, inexperienced and careless operators cause accidents on the water – regardless of the type of boat they operate. On March 15th it was said that “PWC are dangerous because they don’t have brakes.” Indeed no boat has brakes and proper maneuvering to control a vessel’s direction and speed is taught in a classroom or boating course environment. Coast Guard statistics show that there has been a 56 percent decline in PWC accidents since 1996, and that when compared to the total PWC population in the U.S., 99.99 percent of all PWC are enjoyed accident-free each year.

Boat design and boating safety, as a general matter, are within the exclusive jurisdiction of the United States Coast Guard. *See* H.R. Rep. No. 94-1569, at 13 (1976), *reprinted in* 1976 U.S.C.C.A.N. 4290, 4299. The Coast Guard has reviewed and approved all past and current PWC designs, expressly finding that the manufacture and sale of such vessels “would not adversely affect boating safety.” *See* 46 U.S.C. § 4305

Apparently citing an outdated 1998 National Transportation Safety Board report, Rep. Lynch stated that “PWC represented 7.5 percent of state-registered recreational boats but accounted for

36 percent of recreational boating accidents.” These national accident figures are obsolete, potentially misleading and must be considered in proper context. Only a small percentage of boating accidents are reported and the frequency of reporting varies widely among boat types. For these reasons, the U.S. Coast Guard expressly warns that its non-fatal boating accident data are incomplete, cautioning in its Boating Accident Report Database (“BARD”) that:

Non-fatal accidents cannot be assumed to have occurred in numbers proportional to the reported statistics because the act of reporting an accident is not a random sampling of accidents in the statistical sense. Rather, selection is based on the ability and willingness of those involved to file a report. The reporting rates of subgroups of accidents, such as those involving personal watercraft . . . probably differ greatly depending upon unspecified variables.

2004 United States Coast Guard Boating Statistics at 5.

Several factors suggest that PWC accidents are in fact reported more often than other boating accidents. For example, PWC are rented more frequently and rental operators report most accidents for insurance and product liability reasons. In contrast, people often do not report accidents when they have fallen in an open motorboat, injured themselves while starting up an outboard motor, or suffered injuries while canoeing or kayaking. These and other variables make it impossible to estimate the risk of boating-related injuries among different boat types. The data just are not there.

A 2002 report published by the Massachusetts Office of Coastal Zone Management and the NOAA Coastal Services Center concludes, “there is little data or evidence to suggest that PWC are inherently more dangerous than other recreational vessels.”

PWC are indeed remarkable boats that have evolved tremendously since the single-person stand-up boats of the 1980s. Today’s PWC seat up to three people and can be used to tow a water skier. These “family friendly” three-person models represent at least 80 percent of today’s market. They have storage space for snorkel equipment and other gear.

The debate today is no longer about PWC technology, since in every instance since 2000 PWC have withstood technological scrutiny and have been proven to be an appropriate vessel on waters that allow other types of motorized boating. In question is the inability of the National Park Service to honor a commitment it made in 2000. Six years later, and a full four years since the PWC bans were implemented, the PWC industry, the many Americans who earn a living in businesses associated with PWC, and the millions who own or ride PWC continue to suffer undue harm and discrimination.

Again thank you for holding the March 15th hearing. Please do not hesitate to contact me with questions or for more information.

Sincerely,



Maureen A. Healey
Executive Director